

HISTORICAL
Collections

FROM

The Year 1628. to the
Year 1638.

Abridg'd and Improv'd.

VOL. II.

L O N D O N,

Printed in the Year M. DCC. VI.

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LONDON

Printed in the Year 1628

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THE PREFACE.

I Have nothing to acquaint the Reader with, in respect to the Second and the following Volumes of this Work, but this: That tho' 'twas judg'd necessary in the First Volume only to abridg Mr. Rushworth, whose Performante, as to that Period of Time, was carefully and judiciously done, thro the assistance he met with from another Hand; yet his other Volumes are so immethodical and imperfect in comparison of the First, that I have bin forc'd to have recourse to several other Authors, to supply his Defects, which have sometimes happen'd where important Subjects have bin handled; as particularly in the noted Case of Prynne, Burton and Bastwick in the Star Chamber, which with some others have been supply'd from loose Tracts, that often give a more particular account than is to be met with elsewhere. As to the Scotch Affairs, which grew very troublesom in 1638. and indeed drew on all the Misfortunes th at besel these Nations afterwards, I must
A 2 acknow-

acknowledg my self much beholden to the Memoirs of the Duke of Hamilton.

I shan't go on with Remarks on the late publish'd History of the Rebellion and Civil Wars in England, as I begun in the Preface to my first Volume (not but God knows there's room enough for 'em) the Subject being a little too unpleasant; but I desire all those Gentlemen, who are so fond of that History, that as they run it over, they would compare it with these Collections, wherein they have only Matter of Fact, and I doubt not but they'l soon perceive how much a bad Cause may be set off by fine Colours and false Glosses, especially if adorn'd with a manly Stile.

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The King's Grant of a Lett to capture of Ropes, is
void: 30 H. 8. 2. 30. 10 H. 8. 10. 10 H. 8. 10.

King cannot grant, and to be void; 30 H. 8. 10. 10 H. 8. 10.
that the Universities shall proceed, according to the Ci-
vil Law. 30 H. 8. 10. 10 H. 8. 10.

the Common Law, it extends to all that town with
Soldiers; a Man shall not be Death without Jury or
Trial; 10 H. 8. 10. 10 H. 8. 10.

provides, Commissions of Oyer and Terminer, before
granted before the 10 H. 8. 10. 10 H. 8. 10.
diversity. 13 H. 8. 10. 10 H. 8. 10.

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only, as cannot be determined by the Common Law;
but their Offices may be determined by the Common
Law. 27 H. 8. 10. 10 H. 8. 10.

appeal will lie before the Justices and Martial Law.

appeal will lie before the Justices and Martial Law.

THERE being some Transactions relating
to the Years 1628, 1629. omitted in the
former Volume, we have here inserted
them, and shall begin with several Argu-
ments at the Commons Committee of the
whole House, 3 Car. concerning Martial Law.

Whether in case of an Invasion, and where the
King marcheth with an Army, Martial Law may then
be executed, is not now the Question; but whether
Commissions for Martial Law may be awarded in
time of Peace, and I hold such a Commission is against
Law: And the Opinion objected out of 6 H. 8. in
Kellway's Reports, where it is said, *Fineux* told H. 8.
It belong'd to the Law of Arms to determine that
Power, is no Law. For the common Law regulates in
what cases Commissions ought to be awarded, tho it
hath no Jurisdiction in them: If the Admiral Court,
or Court Martial, take Cognizance of Causes that be-
long to the Common Law, the Common Law grants
Prohibitions; and tho it doth not define the Law of
Arms,

Mr. Banks;
afterward
Ch. Justice

orical

Ann. 1628. Arms, yet it sets down when it is to be exercis'd, and how. The King's Commission cannot alter the Common Law. 39 H. 7. a Protection with a *non obstante* in a *quare impedit*, is void. 6 H. 7. 4. 11 H. 7. 24. The King's Grant of a Leet to enquire of Rapes, is void: 36 H. 8. Br. 280. so is his Grant that an Alien shall be Heir to his Father. 37 H. 8. Br. 310. The King cannot grant Land to be devis'd; Hil. 11 Jac. nor that the Universities shall proceed according to the Civil Law. But a Commission for Martial Law alters the Common Law: It extends to all that join with Soldiers; a Man shall suffer Death without Jury or Trial; small Offences are made capital. 2 Edw. 3. c. 2. provides, Commissions of Oyer and Terminer be not granted but for horrible Offences, and to none of ordinary Quality. 13 R. 2. c. 3. regulates the Jurisdiction of the Constable and Marshal, to extend to such Cases only, as cannot be determin'd by the Common Law; but these Offences may be determin'd by the Common Law. We have no War when the Courts of Justice are open. 37 H. 6. 26. if any one call me Traitor, an Appeal will lie before the Constable and Marshal, for that it lies not at the Common Law.

Mr. Mason
of Lincolns
Inn.

This Commission extends to Soldiers and Mariners, and such as join with them, and the Commissioners are to judge who joins with them; the Execution is refer'd to Instructions, the Punishment Death: I have known a Person press'd for a Soldier, and refusing to serve, committed by this Commission, who might as well have been hang'd. In the Commission in question, divers Captains and Commanders are put in as well as Gentlemen of the Country: In the time of Rebellion, the Sheriff hath *custod. comitat.* and all are bound to assist him: In *Egglestonbridge* time, committed many Outrages, and there were 20000 Rebels, and yet no Martial Law, but he was brought to London, and there executed. By Stat. 18 H. 6. tis Felony for a man to depart after he hath receiv'd Wages. To what purpose is the Statute if he may be hang'd by Martial Law, for by that Law he is to be punish'd by Death? The like for Soldiers making away their Arms and Horses, and yet by 2 E. 6. they are but to be imprison'd. If objected, that an Army cannot wait

wait legal Proceedings, I answer, If an Army be in the Field, the Common Law allows Martial Law. 12

4 Car.

H. 7. By two Patents directed to the Earl of Oxford, and reciting, that divers Rebels levied War, &c. he was impower'd to do all things that to the Constable or Marshal appertain'd, *secundum legem & consuetudinem antea usitat.* The like 15 H. 7. and when an Army is in the Field, the Marshal is to judg according to the Law Martial. 1 E. 3. The Earl of Lancaster shew'd the Parliament, the Earl his Father was executed contrary to Law, and the Record was produc'd, *Placita coram Domino Rege*; whereas the Earl being accus'd for raising Commotions, was sent for by the King and seven Earls, and adjudg'd to be hang'd and beheaded; the Error assign'd was done in time of Peace when the Courts were open, nor was he tried by his Peers: Therefore it was consider'd by King, Lords and Commons, that the Judgment was void; and yet there was then a Rebellion, and the King present at the Conviction.

The Common Law takes notice of the Law Martial, but this is merely for necessity, where the Common Law cannot take place. This cannot be in time of Peace; so the Question is, When is time of Peace or War? If the Courts of *Westminster* be open, it's no time of War, unless where the Sheriff cannot execute the King's Writ, for there 'tis *Tempus Belli*. If a Subject be taken in Rebellion, he is to be tried by the Common Law: *John Mountague* Earl of *Salisbury*, was, 2 H. 4. taken in Rebellion, and after he had been a day and a half in Prison, put to death, without due Trial, and this was assign'd by his Son for Error, 2 H. 5. But an Alien Enemy cannot be executed by the Common Law. If Martial Law should be executed on Soldiers in time of Peace, the King may grant a Commission to them that are not Soldiers, or to the General only, and so they shall be worse than other Subjects: If an Army be going out of the Kingdom, Martial Law may be us'd, but the Party cannot be executed without a Commission of Oyer and Terminer. 5 H. 4. There was a Commission to arm and muster men, and imprison such as refuse, not execute them: If Martial Law be us'd, the King will

Mr. Rolles,
afterwards
Ch. Justice.

Ann. 1628.

Mr. Noy, 1st
serjeant at
Law.

lose his Forfeitures of Attainder; for none can by the Common Law be attainted after his Death, but he that is slain in Rebellion, 7 H. 4. 46.

In H. 3. time, from the Battel of *Lewis* to the Battel of *Evesham*, it was a time of War: a Descent took not away Entry, and a Feofment was void, unless they were both of one side, and yet the Courts of Justice were then open. 24 E. 1. They were *Placita Exercitus*, and yet then the Chancery was open, and Writs went out. As for the Earl of *Lancaster*, he drew Forces together, was taken, and a Record being made of his Rebellion, without being call'd to answer, the King adjudg'd he should be executed and forfeit his Lands; but this was revers'd because the King's Courts were open. 2 Eliz. Commissions were granted for Martial Law, *pro hominibus de exercitu* and *in exercitu*, and some were executed, but their Heirs revers'd the Judgments, being given in time of Peace. The Commission in question is not justifiable, for it extends to Soldiers, Mariners and others that join with them, which is too large; for the Mariners have a Law by themselves: both cannot be under one Law. Our Law allows Martial Law, only when an Enemy is approaching, and when the Army is brought together, not while it is raising. If objected, that they are not able to execute according to the Common Law, for the Soldiers care not for a Constable; I answer, They must care for the Country and the Sheriff, for his return that the People make resistance is no good return.

Sir Edward
Coke.

God send me never to live under the Law of Convenience or Discretion. Shall the Soldier and Justice sit on one Bench? *non bene conveniunt*: When the Courts of *Westminster* are open, it's a time of Peace, for then a Commission of Oyer and Terminer may be had, and Martial Law cannot be then executed: *Drake* slew *Doughty* beyond Sea, *Doughty's* Brother desir'd an Appeal in the Constable and Marshals Court; resolv'd by *Wray* and the other Judges he may sue there. 5 H. 4. *Willmon's* Case, the Constable and Marshal proceeding not according to their antient Power, a Prohibition was granted.

Dr

Abridg'd and Improv'd.

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Dr. *Laud*, when Bishop of *London* (who in his Diary saith, that the last Parliament had labour'd his ruin) pen'd an Answer (which was afterwards found all of his own Hand writing) to the Remonstrance of the then last House of Commons; which Answer was publish'd in the King's Name, and was to this effect, *viz.*

5 Car.
Ann. 1629.

That his Majesty was not bound to give an account of his Actions to any but God only; yet to take off all Fears and Jealousys, he thought fit to declare the Reasons why he had call'd in that Remonstrance, which he believes was fram'd with good Intentions, but by a misguided Zeal. The Remonstrance fears Innovations by Popery, but he would have his Subjects call to mind what Difficulties and Dangers he endur'd not many years since for Religion's sake; That he is still the same, his Religion as precious to him as ever; and he will admit of no Innovation therein: That he is least in fault that the expected effects follow'd not upon the Petition deliver'd at *Oxford*, for Supply not being afforded him, that caus'd the stay of legal Proceedings; nor is there near such an Increase of Papists, or such an odious Toleration as is charg'd: The Commission so much complain'd of is utterly mistaken, for it dispenses not with any Prosecution or Penalty, but was advis'd to prevent the Abuse and Connivance of inferior Ministers. The Growth of the *Arminian* Faction, call'd a cunning way to bring in Popery, is wrongfully charg'd upon him and his Government, he not being to be taught by a Parliament Remonstrance, that any Opinion or Faction should prevail so far without his Knowledg. Great wrong is done therein to two eminent Prelates, accus'd without any shadow of Truth; and should they attempt any Innovation, he would not stay for the Commons Remonstrance. That the People are made believe Orthodox Books are restrain'd; whereas those the Remonstrance calls Orthodox, have taken an unsufferable liberty in Printing, tho his Proclamation commanded a Restraint on both sides. For good Preachers the People shall never want them: The Preferments are his, and he will be Judg of Desert, and not be taught by a Remonstrance. *Ireland*, in case of Religion, is not worse than Queen *Elizabeth* left it, and for other Affairs perhaps better than he

The King's
Answer to
the Commons
Remonstrance

A strange
Reason for
Toleration.

Dr. *Laud* Bp
of *London*,
and Dr.
Neale Bp of
Winchester.

Ireland.

Ann. 1629. found it. And the Report, That Monasteries and Nunneries are erected in *Dublin* and elsewhere, he takes as a great and causeless disparagement of his Government. There is no undermining of Religion at home, unless by those who seem most to labour for it in a factious way; and God's Judgments are best prevented by a Remonstrance of the Amendment of our Lives.

Proclamation
against false
Rumors of a
Parliament.

The People being discontented at the Dissolution of the last Parliament, and using Discourses of the necessity of another, the King issued out a Proclamation for suppressing false Rumours, as if the seditious Propositions in the late House of Commons tumultuously taken up by some few, after his Majesty had commanded an Adjournment, had been the Vote of the whole House, whereby Trade was disturb'd, and the Merchants discourag'd; he declares the Raisers of false Reports shall be punish'd, those that go on with their Trades encourag'd, and that he will be satisfied with the Duties receiv'd by the King his Father, which he neither can nor will dispense withal: That he hath lov'd the use of Parliaments; but the late abuse, having at present driven him unwillingly out of that course, he forbids any to prescribe to him a time for Parliaments, the calling, continuing and dissolving whereof is in his Power; and he will meet in Parliaments, when the Causers of this Interruption shall be punish'd, and his Intents and Actions better understood.

Duke of Rohan's Letter
to the King.

The Duke of *Rohan*, the Head of the Protestant Party in *France* (not knowing the Parliament was dissolv'd) by Letter, dated *March 12.* thus implor'd the King's Aid, viz. That the loss of *Rochel* hath redoubled in their Enemies the hopes of their ruin, but they have not lost the Courage or Affection of opposing them: That the most powerful means God hath rais'd to their Churches, is the Aid they have receiv'd and expect from his Majesty: That they had once laid down their Arms, but took them up again at his Majesty's Desire, and upon his Promises, and have not been induc'd to any breach of those Oaths, never to hearken to any Treaty but with his Majesty's Consent, who is the Defender of that Faith they profess, and

hath

hath promis'd to employ all the Power of his Kingdom to shield those Churches from ruin, and they should think it a high Crime to doubt of the Performance: That the greatest thing their Enemies charge them with, is the imploring his Majesty's Assistance, and they suffer from them all manner of Cruelties: They see at their Doors powerful Armies to destroy those retiring Places that are left, to banish the exercise of their Religion, and to massacre them. He intreats therefore his Majesty's assistance, whereby he will gain the greatest Glory, and free from Fire and Sword 300000 Families; and in checking the Boldness of those who blast his Grandeur with unworthy Reproaches, will add to his Title that of the Restorer of the most innocent People in the World, and the most inhumanly persecuted. As to his own concerns, he makes no mention of them, having long since consecrated them to the Publick, and shall always esteem himself happy, provided the Church be not miserable.

Deputies came also from the Reform'd Churches, intreating his Majesty, in case *England and France* should enter into a Treaty of Peace, to insist on the Capitulation made upon his Mediation, which they kept inviolably, till there were Forces rais'd against them contrary thereunto, whereby they were necessitated to take up Arms in their own defence.

To the Duke of Rohan's Letter the King answer'd, he understood there was an intention to propose a Peace between *England and France*, which probably he may incline to. He advis'd him and those of the Reform'd Religion to apply to the French King, and get as advantageous Terms as they could; that he was constrain'd to dissolve his Parliament, from whom he expected Supplies of Money, but failing thereof, he could contribute neither Money nor Arms, and was sorry he could not answer his and their expectation: Whereupon the Duke of Rohan, on the behalf of himself, *de Soubieze*, and others of the Reform'd Religion, applied to the French King; Articles were agreed on, Hostages given, and a Peace concluded, which was ratified by the Parliament there.

A Petition was deliver'd to the Lords of the Council by *John Talbot, Edward Porter, Henry Teller, and*

Address by the Deputies of the Reform'd Churches.

The King's Answer.

Duke of Rohan seeks to the Fr. King for a Peace.

Petition of the distressed Rochel Cap-tain.

Ann. 1629. John Shepherd, the four English Captains employ'd by his Majesty in the defence of *Rochel* during the Siege, praying consideration of the Miseries they endur'd there, feeding for 14 months on Hides and Parchments, and stinted in that: That 3 s. 6 d. was deducted for every week out of each of their Pay, on pretence of Billet-mony; whereas they and their Officers, when Victuals were to be had for Mony, bought them at a dear rate from the *Rochellers*, putting his Majesty to no Charge: That they were at 200 l. charge a man, to maintain themselves and their Companies, for which they were still indebted to the *English Merchants* there. To which their Lordships answer'd, That they took notice of their great Sufferings, and would be mindful of them, as occasion offer'd.

*The Councils
Answer.*

*By of Lon-
don's Consi-
derations
concerning
Church-Gov-
ernment.*

The Bishop of *London*, after the Parliament was dissolv'd, presented to his Majesty these Considerations concerning Church-Government, viz. Bishops to be resident in one of their Episcopal Houses, unless attending at Court; to give Charge in their Visitations, that the Declaration for settling the Questions in difference be observ'd; to forbear frequent and unworthy Ordinations; that care be had over the Peoples Creatures the Lecturers; that Afternoon Sermons be turn'd into Catechizing; if not, then Lecturers to read Prayers in their Surplices; that they be grave and orthodox Persons; no Lecturer to preach in a Corporation, unless he hath cure of Souls there; that the Bishop encourage his Clergy to be present, that so he may have knowledg; none under Noblemen or Men qualified by Law to have any Chaplain; Men of Courage, Gravity and Experience to be Bishops; fit Persons to be Governors of *Emanuel* and *Sydney* College in *Cambridge*, those Nurseries of Puritanism; some of the Privy Council by their Presence to countenance the High Commission; the Judges not to send so many Prohibitions; his Majesty every half year to take an account of these things; Consideration to be had of the Feoffees for Benefices and Preferments, and for new authorizing the Injunctions.

*The King's
Declaration
as to Religi-
on, Liberty,
and Property.*

His Majesty issued out a Declaration to this effect, That he desir'd to be found worthy of that Title, *Defender of the Faith*, and should never give way to any Inno-

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Innovation in the Church; that he had by Proclamation order'd the Laws to be put in execution against Priests and Popish Reculants, and hath secur'd to his Subjects their just and antient Liberties by his Answer to the Petition in Parliament, and hath not since that time, nor will do any Act to infringe them, having enrol'd the Petition and Answer in his Courts of Justice.

For settling Tunnage and Poundage (the great Subject of Contest in the last Parliament) the Privy Council thus proceeded: They issued Warrants to seize any Goods attempted to be landed before Custom paid: All Goods on Shipboard to be remov'd to the Custom-house Store-houses, or for want of room, into the Tower, till his Majesty's Dutys and the Freight due to Shipmasters were satisfied. In case of *Replevin*, to take them out of the King's Store-houses, the Messengers of the Council were to detain them, and to apprehend all that make resistance: The Officers and Magistrates of the Ports to assist the Officers of the Customs: Sir *Francis Cottington* to call before him the Merchants that had been trusted for Customs, and if payment delay'd, to warn them before the Council. The Court of Exchequer having order'd, that *Richard Chambers*, whose Goods were for non-payment of Customs detain'd in the Commissioners hands, should have his Goods upon payment; the Council order'd the Commissioners not to deliver them, till his Fine of 2000*l.* impos'd on him in the Starchamber was first levied. A Ship returning from the Straits, coming to an Anchor in Dover Road, and the Goods being design'd to be unladed into small Vessels, and sent to *Holland* without Landing; the Council order'd the Officers of *Dover* to seize the Goods and put them into Store-houses, unless security was given to send them to *London*: And afterwards an Order was made against all such secret conveying away of Goods, to defraud the King of his Customs: And the Messengers of the Council were authoriz'd to search any Vessel or House, and break any Bulk whatsoever, if Customs not paid.

For the Militia. The Privy Council in their Letters to the Lords Lieutenants, requir'd them to take care the Train'd Forces be compleat, and have able Officers, and they and the Soldiers well-affected to Religion, and

Car.

Tunnage and Poundage required to be paid.

R. Chambers his Goods detain'd for a Fine of 2000 *l.*

Goods design'd to be convey'd beyond Seas to avoid paying of Customs.

Orders to search Ware-houses, &c.

Militia.

Ann. 1629. and take the Oaths of Allegiance and Supremacy. If a Soldier enrolled remove his dwelling, notice to be given to the Deputy Lieutenants, and the Company filled up. The occupiers of Houses or Lands charged with Horse or Foot, to supply them; the Beacons to be repaired, the Magazines furnished, and the Horsebands to appear to shew their Horses and Arms on the 1st of October. The Lord Mayor of London receiv'd the like command for the trained Forces within the City: The Council likewise ordered the Lord Lieutenants to appoint the Captains upon every vacancy, and to return to the Board the Names of such as shall refuse to serve. And each County was assessed at a certain rate for the entertainment of a Muster-master, the money to be collected by the High-Constables, and the Persons refusing payment to be returned to the Council. And the Lieutenants and Deputy Lieutenants were to take bond for their appearance there.

*Order to
Lord Mayor.*

*Captains of
trained
Bands.*

*Muster-ma-
ster.*

*Popish Recu-
sants to be
prosecuted.*

*Their resort
to Ambassa-
dors Houses
prohibited.*

*Increase of
Recusants in
Northum-
berland.*

*Priests and
Jesuits to be
sent to Wil-
bich.*

His Majesty in Council declared, that he had by Proclamation commanded the Laws to be put in execution against Priests and Popish Recusants; and if it hath not succeeded, the fault is in subordinate Officers and Ministers in the Country, by whose remissness they escape without Punishment: And ordered all English going to Ambassadors Houses, or other places to hear Mass, to be seized; declaring he had begun at his own House, in not permitting any to go to the Queen's Chappel but those of her own Household, and required the Privy Council to acquaint foreign Ambassadors therewith. And a Letter was sent from the Council to the High Sheriff, and Justices of Peace in Northumberland, expressing the King's displeasure at the excessive increase of Popish Recusants in that County, and requiring them to certify the number of them convicted or unconvicted, if justly suspected, and put the Laws against them in execution; of their Proceedings wherein they are to give an account to the Board. A Proclamation likewise issued, for proceeding against Priests and Jesuits, and bringing them to Trial, declaring that such as shall be convicted, if there be cause to respite Execution, should be sent to the Castle of *Witch*, or some other safe Prison, to remain in close Custody; and the Lords writ to the Bishop of *Ely*,

to prepare the said Castle for that purpose, and to remove one *Southwood* a Priest thither. The Priests and Jesuits were very active in *Scotland*, and the People in many places coming publickly to Mass, and the same being chiefly countenanced by Marquis *Huntley*, and three other Roman Catholick Lords, the Council of *Scotland* proceeded against them, and they flying into *England* were all put to the *Horne*: but finding in *England* no good reception, they returned.

The Council in *July* considered what probable ways might be found of raising supplys for his Majesty; and the first thing taken into Consideration was, to raise monys by incorporating Companies. And King *James* having formerly incorporated the Starchmakers, and given them rules for making of Starch, and avoiding annoyances thereby, his now Majesty appointed them a Surveyor and Commissioners to dispatch all complaints, and take care that such Offenders who deserve to be made exemplary, undergo the Censure of the Starchamber: and the King having issued a Proclamation dated *June 30th* concerning the making of Starch, and avoiding the annoyances thereby, the Justices of Peace were to bind Offenders against any Article thereof, to appear before King and Council and in the Starchamber. Afterwards there was a Contract by Indenture between the King and the Society of Starchmakers, whereby they agreed to pay the King 1500 *l.* for the first year, 2500 *l.* for the second year, and 3500 *l.* *per annum* afterwards.

The next way to raise money was by Composition with Recusants; and it was published by Proclamation, That whereas his Majesty had formerly granted several Commissions for leasing the Lands of Recusants, with instructions for direction of the Commissioners, but by the neglects and abuses of inferior Officers and others that part of his Revenue had been much lessened; his Majesty had now caused those Commissions and Instructions to be revived, and in some parts altered, that such who were willing to contract, might attend the Commissioners; and such who had contracted for Leases were to pass their Leases under Seal, before the end of *Michaelmas Term* next, or their Contracts to be void.

5 Car.
Priests and
Jesuits in
Scotland.

Ways thought
on of raising
mony.

Corporation
of Starch-
makers.

Recusants to
compound for
their Forfeitures.

Ann. 1629.

A 2d. Proclamation
against the
Bishop of
Calcedon.

A second Proclamation issued against *Richard Smith*, titular Bishop of *Calcedon*, reciting a former Proclamation dated 11th December 1628 for the apprehending him, and forbidding to harbor or conceal him; notwithstanding which he is still hid and harbored by those, who blinded with Popish Superstition prefer their respects to him before their duty to their King. His Majesty therefore reneweth his former Command in that behalf. And that none may pretend ignorance, his Majesty declares, that the said *Smith* is not only a Popish Priest, and had taken upon him to exercise Ecclesiastical Jurisdiction, pretended to be derived from *Rome*, and endeavour'd to seduce the Kings Subjects from the Religion established, but traiterously holds Correspondence with the Kings Enemies; and that whoever lodges, harbors or relieves him or any other Popish Priest or Jesuit, shall incur the danger of the Laws, whereby it is Felony: And whoever discovers the said *Smith*, and causes him to be apprehended, shall have 100 l. from the King, and the benefit of all Penalties and Forfeitures incurred by that Person in whose House he shall be harbored or concealed: His Majesty commanding all Judges, Justices of Peace, Mayors, &c. to proceed against the said *Smith*, and such as shall harbor or conceal him, or connive at his Concealment.

Remarks
concerning
him.

This Bishop was since the last Year of King *James* severely persecuted by the regular Priests in *England*. *Le Maistre* a *Sorbon* Priest writes of him, That after the death of *William* Bp of *Calcedon*, most of the secular Priests, together with the *Benedictines*, became suitors to the Pope and his Conclave, to have one or more Bishops sent into *England* to ordain Priests, give Confirmation, and exercise Episcopal Jurisdiction there. The regular Priests and some others here stiffly opposed it, but the former prevailed, and Pope *Urban*, the 4th of August 1625. created *Richard Smith* Bishop of *Calcedon*, and sent him into *England* to exercise Episcopal Jurisdiction, and to be Superintendent over the Priests here; but the Regulars writing several Treatises against Episcopacy, and of the inconvenience of having a Bishop in *England*, their books were censured by the Faculty of *Paris*, which raised such a Persecution

Abridg'd and Improv'd.

13

5 Car.

Queen Mary
Wife to K.
Charles.

secution against this new Bishop in *England* and *Ireland* among the Popish Party, that they chased him into *France*, where he was entertained by Cardinal *Richelieu*; He calls him an illustrious Champion, fit to be settled in *England*, where the heat of Persecution hath ceased by the *Bourbonian* Star. *Rudecindus* President of the *English* Benedictines at *Doway*, in his Letter to the Congregation at *Rome de Propaganda fide*, laments the opposition given to *Mathew Kellyson* and *Richard Smith*, who were nominated to the Pope to undergo the Episcopal charge in *England* (where there were then above 60 Benedictine Monks;) that *Kellyson* was chief Professor of Divinity in the University of *Rheims*, and *Smith* conjoined in Studies with the Bishop of *Lussion*, now Cardinal *Richelieu*. He prayeth a Bishop may be granted to *England*, and doubts not but that there having been so good success under the first Bishop, there would be under the next more joyful Fruits within one or two Years in the *English* Mission, than hath been for 60 years past; and why should not the Regulars agree with a Bishop and secular Clergy in *England*, as well as elsewhere?

Two Papers were found in the Dean of *Paul's* Yard, which he delivered to the King, the one against the Bishop of *London* to this effect. *Laud* look to thy self, thy Life is sought, as thou art the Fountain of all Wickedness; repent thee of thy monstrous Sins before thou art taken out of the World, for neither God or the World can endure such a vile Counsellor and Whisperer to live. The other was as bad against the Lord Treasurer *Weston*.

Libel a-
gainst the Bp
of London.

Grievances abounding in *Ireland*, the Lord Falkland the Deputy condescended that the Nobility, Gentry and Freeholders of each Province, County and Corporation, should choose Agents to go into *England* in conjunction with those of the other Provinces, to present to his Majesty what they had to offer on their behalfs: and by his Letters of the 26th of *June*, and 26th of *July*, authorized them thereunto; and such Agents being nominated, deputed some of their number to his Majesty, to whom they presented a Petition to this effect, viz. That they have in the behalf of that Nation offered to remit 150000*l.* already borrowed from them,

Ld. Dputies
Commission
to the Irish
Agents.

Their Petition
on to the
King.

Ann. 1629. them, or paid to the Army there, and to grant 3 Subsidies to be paid in 3 Ycars, which considering that Kingdom's Poverty is what they are able to do: that they now present some requests according to the Instructions given; not as if they intended to contract with his Majesty, but shall after the said 3 Years contribute to his occasions with the same alacrity and duty as their Ancestors had done in the times of his Predecessors, not doubting but his Majesty will in his paternal care take such courses, as they shall never be pressed beyond their Abilities; and they prayed he would give a favourable and speedy dispatch hereunto. The Grievances presented by them were 55, to each of which the King gave a particular answer; either giving present ease, or putting things into a way of future remedy. The most material Grievances were, The extortion of 13 s. 4 d. 10 s. and 6 s. 8 d. for every Christning, Marriage and Burial, and procuring the Lord Deputy's warrant to imprison the Person refusing; exorbitant Fees taken for Proceedings in the Courts of Justice; employing Soldiers to fetch in the King's Revenue; suffering them to wander abroad out of their Garisons; Monopolies, restraints of selling Liquors, sealing of Barrels, abuses by short Ploughs, and intanning of Leather; and imposing new charges on the Subjects without their own Consent. And they prayed the King would call a Parliament for rating the Subsidies, securing their Estates, granting a general Pardon, and providing for such other things as shall be necessary. To this last request the King in his Answer declar'd his Pleasure to call a Parliament in *Ireland*; whereupon the Agents overjoyed sent Letters into *Ireland*, as if Writs for a Parliament there were presently to issue out, which was a great Error, for they were first to obtain a Grant or Licence under the Great Seal of *England*, to enable them to issue out such Writs. And the Council in *England* understanding from the Lord Deputy and Council in *Ireland*, that they had already issued out such Writs for a Parliament there in *November*, without a Licence under the Great Seal of *England*, contrary to the Statutes of 10 H. 7. and 3 Ph. and Mary, whereby the said Writs of Summons were void, referred it to such of

Their Grievances.

In Ireland a Parliament call'd irregularly.

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the Judges as were then in or near *London*, with the Assistance of the Commissioners for *Irish* Causes, to consider of the said Summons, and the Errors committed in issuing the said Writs, and of the Certificate of the said Commissioners touching the Preparations for calling a Parliament in *Ireland*, and to certify what Course they think fittest for rectifying the said erroneous proceedings, whether by revoking the former Summons, or superseding or respiting them for a time, or issuing out of new, and by what means (by Letters, Proclamations or otherwise) to be done. To which the Judges made this answer: That the Summons already made was unwarrantable, and all the Parliament should do, would be void: The Statutes of 10 *H. 7.* called *Poyning's Act*, and 3 and 4 *Phil.* and *Mary* explaining it, prescribe first a Certificate by the Lord Deputy and Council of *Ireland*, under the Great Seal of that Kingdom, of what Acts they would offer, which Acts must be returned back approved or altered by his Majesty, with his Licence under the Great Seal of *England* for summoning a Parliament, and then and not before the Writs of Summons are to issue. If any of these Circumstances fail, all is void. As for the Lord Deputy's Commission empowering him to summon the Parliament, that is to be understood of a Parliament according to Law; nor can this Error be remedied by any Adjournment: But the best course is by a Proclamation there to publish this mistake, and thereby to prevent their assembling, and then his Majesty to send his Licence under the Great Seal of *England* for summoning the Parliament; for they conceived no general Writ of Superseas of the former writs of Summons could be granted.

The Lord *Falkland* Lord Deputy of *Ireland*, issued out a Proclamation taking notice, that through the late intermission of prosecution of Popish or Titular Archbishops, Bishops, Abbots, Deans, Vicars General, Jesuits, Friars, and others of that sort, they have presumed of late to celebrate their superstitious Service in publick places, and have erected Oratories, Colleges, Mass-houses, and Convents of Friars, Monks and Nuns, in the eye and open view of the State, and exercised Jurisdiction over his Majesties Subjects, and by colour

5 Car.
Reference to
the Judges
about the
same.

Their Opini-
ons.

Proclamation
by the Ld.
Deputy a-
gainst Priests
and Jesuits,
&c.

Ann. 1629.



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colour of teaching Schools, train up the Youth of this Kingdom in their superstitious Religion; they are commanded not to exercise such Jurisdiction, but to break up their Convents and Assemblies in all Houses, Colleges, Monasteries, and other places, to separate themselves, and forbear to preach or celebrate their Service in any Church, Chappel or other publick place, or to teach School in any place whatsoever; and that the owners of such Houses, Monasteries, Schools, Mass-houses, Nunneries, &c. do forthwith expel and thrust them forth from thence, and convert the same to other uses, on pain of having their Houses seized to the King's use, and themselves proceeded against in the severest manner, as maintainers of unlawful Conventicles, and corrupt nurture of Children. And the Protestant Archbishops, and Bishops of Ireland were so scandalized at the boldness of this Popish Crew, in erecting Houses wherein publickly to celebrate their superstitious Services, that they published this Declaration or Protestation following, viz. That the Religion of Papists is Superstitious and Idolatrous, their Faith and Doctrine Erroneous and Heretical, their Church Apostatical: to give them therefore a Toleration is a grievous Sin; First, it would make us accessary to their Idolatries, Heresies, and all the abominations of Popery, and to the Perdition of the seduced People: Secondly, to grant a Toleration for any money given, or Contribution to be made by them, is to set Religion to Sale, and with it the Souls of the People, which as a great Sin so is of dangerous Consequence; they conclude with a Prayer, that all in authority may be zealous and resolute against Popery.

Protestation
of the Irish
Bishops a-
gainst Pop-
ry.

Ld. Mayors
Order for re-
forming a-
bus on the
Lord's-day.

The Lord Mayor of London taking notice of the Prophanation of the Lords Day, by buying and selling; Inholders suffering Markets to be kept by Carriers in selling Victuals to Hucksters, Chandlers and others; Carriers, Carmen, Clothworkers, Waterbearers and Porters, carrying Burdens, Watermen plying their Fares, others working in their ordinary callings; Vintners, Alehouse-keepers, Tobacco and Strong-water Sellers, suffering Company to sit drinking in their Houses; others cursing and swearing: for Reformation thereof, he commanded all Constables, Headboroughs, and

and others to assist the Bearer, in apprehending any such Offenders, that they may publish Security for their good Behaviour; but herein I think the Mayor wanted the advice of the Recorder, or of some other of the City Council: For no man is by Law obliged for any of these Offences to find sureties for the good Behaviour, which is a dangerous and ticklish Point.

After the surrender of *Rochel*, the Spanish having taken *Mantua* and *Montferrat*, the French King to prevent his further Usurpations in *Italy* upon the Duke of *Savoy*, and other Princes, sent Cardinal *Richelieu* of whose Conduct he had had good experience in the Expedition against *Rochel* with an Army into *Italy*.

About this time at *Sisal* in *Italy*, Articles of Peace between the Kings of *England* and *France*, were by the mediation of the *Venetian* Ambassador agreed upon: They were published by the French King at Arms in all his Formalities in the Camp before *Privas*, a Protestant Town which the French King after the taking of *Rochel* had laid Siege to, in the sight of the besieged. The same day the French King sent a Summons to *St. Andre Montauban* the Governor of *Privas* to surrender, which he then refused to do; but not long after it was surrendered, and that by an Accident that fell out with a great Slaughter of the men in the Town. The same day (the 10th of *May*) that the Peace was published in *France*, it was likewise published in *England*, His Majesty declaring that the ancient Amity between the two Crowns, their Realms, Dominions and Subjects, was renewed, all Hostilities to cease, and Trade and Commerce between their Subjects in each others Countrys, to be free as formerly in times of Peace: whatever hath or shall be done, by those at Sea, with Letters of Mart, during two Months from the 14th of *April*, shall not derogate from the Peace; and whatsoever hath been or shall be taken within the aforesaid time, shall be restored. All which Premises his Majesty commands all his Subjects to observe. The Articles of Peace were to this Effect: 1. The 2. Crowns to keep the ancient Alliances between them inviolably; The Commerce to be free;

5 Car.

French King
sends an Army
into Ita-
ly.Peace be-
tween Eng-
land and
France.
Publish'd in
France be-
fore *Privas*,
which was
afterward
surrendered to
the French
King.And in Eng-
land.The Articles
of Peace.

Ann. 1629. free, and if there be any thing fit to be added or diminished about the same, it shall be done. 2. No Restitution to be made of any Prizes, which have been taken, nor any Reprisal at Sea to be granted for what is paid. 3. The Articles and Contract of Marriage of the Queen of Great Britain to stand confirmed; and if there be any thing to be added or diminished concerning the Queen's Household, it shall be done with mutual Consent. 4. All former and ancient Alliances of the two Crowns shall remain in full Force. 5. The two Kings shall endeavor mutually to give Aid and Assistance to their Allies and Friends, to the end to procure an entire quietness for Christendom. 6. Extraordinary Ambassadors, Persons of Quality, shall be sent reciprocally with the Ratification of the present Agreement, who shall bring with them the Names of the ordinary Ambassadors, that are to reside in each Court. 7. Whatsoever shall be taken by Ships at Sea having Letters of Mart during two Months after signing this Treaty, shall be restored on the one and the other Side. 8. The two Kings shall sign these Articles on the 24th day of April, which shall be delivered to the Venetian Ambassadors to be mutually delivered to the two Kings, as soon as each of them shall have notice of the other that they have the said Articles: and from the day of Signature, all Hostilities shall cease. And his Majesty at the Instance of the Queen ordered some Priests and Recusants to be released, and delivered to the French Ambassador to be transported beyond Seas.

Priests and
Recusants
Real Liberty
setty

The Queen
delivered of
a Son, who
died soon af-
ter.

French
Wines pro-
hibited by
Proclamation.

Proclamation
against
selling Ships
to Strangers.

May 13. The Queen was before her time delivered of a Son, He was Christened Charles, and dyed within a short time: The Bishop of London the day after his Death buried him at Westminster a little before Midnight.

Upon the Petition of the French Merchants in London, the Importation of French Wines was prohibited by Proclamation for six Months, by reason of the great quantity in Merchants Cellars, and no French Wines were to be imported in Foreign bottoms.

His Majesty issued out another Proclamation, prohibiting his Subjects to sell or alien any Ship or Vessel to any Person either born or resident out of the King's

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King's Dominions, upon severe Penalties.

In July the King order'd the Council to write a Letter to the Lord Falkland Lord Deputy of Ireland, taking notice of Sir Pierce Crosby's readiness in the levying and transporting those voluntary Troops under his Command at the Isle of Ree, and declaring he will send them into Ireland, consisting of ten Companies besides the Colonels. They therefore require his Lordship, that upon his and their landing, they may be listed as part of his Majesty's Army, and no new Companies to be rais'd, notwithstanding any former Direction.

September 16, The French King swore the Peace, in the presence of Sir Thomas Edmonds the English Ambassador Extraordinary, and to observe all the Points and Articles agreed upon, and imported by the Treaty of Peace.

The Grand Signior sent his Grand Visier Conseron Bassa with 200000 men to besiege Babylon; whose military Discipline was strangely severe: for he punish'd every Soldier with Death that wronged any one, upon the single Complaint of the Person injur'd. There were four English Men of War who pillag'd three small Vessels of Marseilles in the Port of Alexandria, there being then War between England and France: but upon the French Consul's complaint to the Bassa of Aleppo, the English Magazines and Merchandizes there were seiz'd, and most of the Merchants imprison'd, which made the English return the Money and Goods, besides which it cost them 50000 Crowns to the Aga of Alexandria Caddi, and other Officers of Justice there. But the Grand Visier arriving at Aleppo, and not content with this Satisfaction, sent for the English Consul to his Tent, where contrary to Custom (there us'd to be a Seat appointed for him opposite to the Visier) he made him stand before him; and the Consul owning they were the King of England's Ships, the Visier commanded his Executioner to hang the Consul and his Interpreter before the Castle: but the Interpreter being a corpulent man, and not able to walk so far, they would have hang'd him on a Tree, but that the Consul gave them thirty Ducatoons to cut off the Interpreter's Head, which they did, and furnish'd

5 Car.

A Letter on
behalf of Sir
P. Crosby.

The French
King swears
the Peace.

The Grand
Signior sends
his Visier to
besiege Baby-
lon.

English Mer-
chandizes at
Aleppo
seiz'd.

The Visier
condemns the
English Con-
sul and his
Interpreter to
be hang'd.

Ann. 1629. the Consul with a Horse, and put him into a nasty hole in the Castle, permitting none to see him; but in seven days he obtain'd his Liberty at the rate of 30000 Ducatoons.

The Consul saved.

Proclamation for repairing Churches.

11 October, The King taking notice of the great decay of Parish Churches, which the Inhabitants and Land-owners by Law ought to repair and maintain, did by his Proclamation command the Archbishops and Bishops to take a special care thereof, and to have them view'd, and to use the Power of the Ecclesiastical Court about the same; and requires the Judges not to be too easy in granting Prohibitions.

Goldsmiths Shop in Cheapside.

It was a glorious sight to behold the Goldsmiths Shops all of one row in Cheapside from the Old Change to the open Place over against Mercers Chappel, unless three or four Shops of other Trades which at that time interpos'd. But the Goldsmiths beginning to draw off from thence, the Council 18 Novemb. refer'd it to the two Chief Justices, and such other Judges as they should call to them, to consider what Laws and Statutes there are to enforce the Goldsmiths to plant themselves in Cheapside, Lombardstreet, and Parts adjacent.

Transportation of Timber prohibited.

19 December, The Council being inform'd of the great decay of Timber both here and in Ireland, issu'd out an Order, That the Lord Admiral give directions to the Officers of the Ports of England, that no Ship-timber or Pipe-staves, especially no Knee-timber be transported out of this Realm without special Licence of his Majesty or the Board; and the like Order to be given to the Officers of the Ports of Ireland.

Duke of Bethlen Gabor.

His last Will.

In November Bethlen Gabor Prince of Transilvania, who had assisted the Protestant Princes in the War, died of a Dropsy, to the regret of the Turk, and satisfaction of the Emperor. By his Will he gave to his Imperial Majesty, the King of Hungary, and the Emperor of the Turks, each a Horse richly harness'd, and 40000 Ducats in specie; to his Wife 100000 Ducats, 100000 Rixdollars, and 100000 German Florins, and three considerable Signiories for her Life, and made the Emperor of the Turks his sole Executor.

30 December, certain Instructions (afterwards call'd Regal Instructions, and somewhat differing from the Bishop of London's Considerations before mentioned) were sent from his Majesty to the Archbishops of Canterbury and York; to be put in execution by the several Bishops in their respective Provinces; and were to the effect following: That the Bishops give charge in their Triennial Visitations, and otherwise; That the Declaration for settling all matters in difference be observed; That Ordinations be not of unworthy Persons; The Afternoon Sermons to be turn'd into Catechizing; Every Lecturer to read Prayers in his Surplice and Hood before the Lecture; Lecturers in Market Towns to preach in Gowns, and not in Clokes; No Lecturer to preach in a Corporation, till he profess his Willingness to take a Living *cum cura* within that Corporation, and take such when offer'd; The Bishops to countenance Orthodox Divines, and take an account how Lecturers and Preachers behave themselves; None to keep a Chaplain in his House, but Noblemen and Men qualified by Law; To take a particular note of such as absent themselves from Prayers and Catechisms, as well as Sermons; No Bishop shall from the day of his Nomination to another Bishoprick, make any Lease, or cut any Wood or Timber, and if he doth, he shall stay where he is; The King to have an account hereof every 2d of January. These Instructions were sent by the Archbishops to the several Bishops, and the Bishop of London summoning the Ministers and Lecturers there, made a solemn Speech to them, pressing Obedience thereunto, and writ a Letter dated the 4th of January to his several Archdeacons, requiring them to send him, by the 3d of February next, the Christian and Surnames of every Lecturer within their respective Archdeaconries, the Place where he preaches, and his Quality and Degree; and the Names of such Men not qualified, as keep Chaplains in their Houses; and to leave with every Parson or Vicar a Copy, not of all, but of those Instructions about the King's Declaration, Lecturers, private Chaplains, and Absenters from Church, with a Charge that he deliver another Copy to the Church-wardens; and that at the end of every Visitation they give him notice how perform'd,

Car.
Regal Instructions for the Clergy.

Ministers
summoned by
the Bp of
London on
that occasion.
His Letter to
his Arch-
deacons.

Ann. 1629. and by whom disobeyed: for if they fail, he must, when he gives up his account, discharge himself upon them.

*M. Bernard
a Lecturer
questioned
in the High
Commission.*

28 January, Mr. Bernard, Lecturer of St. Sepulchers London, had this Expression in his Prayer before Sermon, *Lord open the Eyes of the Queen's Majesty, that she may see Jesus Christ, whom she hath pierced with her Infidelity, Superstition, and Idolatry;* for which he was questioned in the High Commission Court, but upon his Submission dismist.

*Billeting Sol-
diers opposed
at Chichester.*

The Mayor of Chichester having by Letter acquainted the Earl of Dorset with the Opposition of some of the Inhabitants to the Billeting of Soldiers, threatening to shut the Gates against them; and the same being imparted to the Council, and the King understanding it, and that two of the Burgeses there were the principal Encouragers of such Opposition, bidding the Mayor take heed what he did, for that a Parliament would call him to account for it; the Council sent a Messenger for the two Burgeses, and writ to the Mayor that he, the Recorder, and two of their Aldermen should attend the Board at their next Sitting: But what became hereof appears not.

*The Popists
in Ireland
assemble
publickly,
erect Con-
vents, &c.*

*A Letter
from the
Council in
England to
the Lords
Justices in
Ireland con-
cerning it.*

In Ireland the Popish Bishops, Abbots, Vicars, Jesuits, &c. assembling themselves in publick Places throughout that Kingdom to celebrate their Services, and erecting Colleges, Convents, &c. in the open view of the State; the Council in England, by their Letter dated January 31, writ to the Lords Justices and Council of Ireland to this effect: That they understood by them, that the seditious Riot mov'd by the Fryars and their Adherents was suppress'd; That where such People were permitted to swarm, they would soon make their Hives, and then indure no Government but their own; That his Majesty approves of their good Service, whereby they may be encourag'd to go on with like Resolution and Moderation, till the Work be fully done; the Carriage whereof, and where to carry a hard or a softer hand, must be left to their discretions: for as to such Magistrates or Officers as openly or underhand favour or do not their duties in suppressing such Disorders and punishing the Offenders, they shall do well by pu-

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nishing or displacing of a few to make the rest more cautious. His Majesty requires them to take order, that the House where so many Fryars appeared in their Habits, and where the Arch-bishop and Mayor of Dublin received the first Affront, be demolished, as a Terror to the Resisters of Authority, and the rest of the Houses imploy'd to those Uses throughout that Kingdom converted to Houses of Correction or publick Work-houses; That they endeavour to discover the Founders, Benefactors, or Maintainers of such Societies and Colleges, and certify their Names; to find out their Lands and Revenues, and dispose of them according to Law; and certify the Places and Institutions of all such Monasteries, Priories, Nunneries, &c. and the Names of the Brothers or Sisters therein, especially those of note; That Order is taken for their being speedily supply'd with Munition.

Mr. Charles Chancy Minister of Ware, for using these Expressions in his Sermon, That Idolatry was admitted into the Church; That the Preaching of the Gospel would be suppress'd; That there is much Atheism, Popery, Arminianism, and Heresy crept into the Church; was question'd in the High Commission, and he being refer'd by them to the Bishop of London his Ordinary, he required him to make a Submission in Latin.

The Arch-deacon of Canterbury certify'd, that Mr. Palmer Lecturer at St. Alphage Canterbury had no Licence to preach there; that he read Prayers against the Ministers will, and catechiz'd, but not according to the Canon, and in catechizing took upon him to declare the King's mind in his Instructions; That he never heretofore read Prayers, or used the Surplice in the Parish; That he preach'd a Sermon detracting from Divine Service; The factious Parties in all the Town his Auditors. The Commissioners thereupon willed Mr. Palmer to desist, but Arch-bishop Abbot authoriz'd him to preach again.

The King under his Privy Seal March 14. granted the Lights of Dungeness upon the Coast of Kent; and that there should be collected of every Ship, Hoy, and Bark, one penny upon every Tun outwards and homewards bound.

3 Car.

M. Chancy
a Minister
questioned in
the High
Commission.

M. Palmer
a Lecturer
questioned.

The Lights of
Dungeness.

Ann. 1629.

*A Grant for
Relief of the
exiled Pala-
tinate Mi-
nisters.*

16 March, A Grant passed the Great Seal for a general Collection in *England* and *Wales* towards the Relief of the poor exiled Ministers of the Palatinate, their Wives and Children, of whose distressed Estate his Majesty was informed as well by the Ministers and Elders of the *Dutch* Churches at home and abroad, as upon the Recommendation of his Sister and her Consort the Prince Elector Palatine; they being spoil'd of their temporal Estates, and forced to retire from the violence of their Adversaries. Which Extremity is fallen upon them for their Sincerity and Constancy in the true Religion, which Religion (said his Majesty) we together with them profess, and which we are all bound in Conscience to maintain to the utmost of our Power: whereas these religious and godly Persons might have enjoy'd their Fortunes, if with other Back-sliders they would have submitted to the Antichristian Yoke. That he is certainly inform'd, that those of the United Provinces have bountifully contributed towards their Necessity, and is assured that his loving Subjects, who have long enjoy'd the Freedom of the Gospel, will not be inferior to any in a Work so full of Piety and Charity. But after this Patent had pass'd the Seal, the Bishop of *London* mov'd the King to have it cancel'd, which was done, and a new one seal'd, the following Words being omitted, viz, "Which Religion we together with them profess, and are all bound in Conscience to maintain to the utmost of our power."

*A Peace be-
tween Poland
and Sweden.*

Towards the latter end of this Year, by the Mediation of *England* and *France* and other Princes, a Truce for six years was concluded between the Kings of *Poland* and *Sweden*; which Mediation those two Kings undertook, the one fearing lest the Emperor by his Success against the Protestant Princes should extend his Empire to the prejudice of *France*, and the other hoping to get the *Swedes* Assistance for the Recovery of the Palatinate. And accordingly after this Truce, the King of *Sweden* having a design upon *Germany*, kept up his Army, giving out that he would relieve the oppressed Princes and People there, and restore them to their Liberty. To this end he sent an Ambassador into *England* to treat for Assistance. The

*The King of
Sweden de-
signs an Ex-
pedition into
Germany.*

*Sends an
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King and Queen of *Bohemia* writ to the King their Brother for raising Forces, and the Queen to Marquiss *Hamilton* to be instrumental therein. His Majesty readily comply'd, and resolv'd to send an Army of 6000 men under Marquiss *Hamilton*, but so as they should appear the voluntary Assistance of his Subjects; he having then an Ambassador with the Emperor to endeavour the Restitution of the Palatinate, and some hopes he had to gain it by *Spain's* Mediation. The Marquiss likewise sent Colonel *Alexander Hamilton* to the King of *Sweden* to offer his Service, who presently gave him a Commission to be General of what Army he should raise; and *David Ramsey*, a Gentleman of his Majesty's Privy Chamber, to treat with the *Swede* upon what terms the Marquiss should engage.

The Emperor commanded his Edict in favour of the *Romish* Ecclesiasticks to be put in execution, and sent his Commissioners to *Ausburg* with some Companies of Peasantry, who acquainted the Ministry it was his Imperial Majesty's pleasure all Ecclesiastick Goods should be restored, and the Protestant Pastors wholly to forbear the Exercise of their Religion, and that those of them that had the privilege of Burghers might stay, but the rest depart the City. During the execution, all the Inhabitants were confin'd to their Houses; some small time after the Emperor totally abolish'd the Protestant Religion at *Ausburg*, and the Protestant Pastors were commanded to withdraw themselves, for that the Catholick Bishop should hold the Episcopal See. The same Edict was also executed in *Halberstadt*, and the Places and Revenues restor'd to the Catholicks; which, notwithstanding the Protestants insisted on the Emperor's Grant in 1628, was executed with rigor. And *Wallestein* Duke of *Friesland* and his Heirs were invested with the Dukedom of *Mecklenburg*, against the Dukes whereof the Emperor had publish'd a Declaration, whereby they stood accus'd of Treason, Rebellion, &c.

The King of *Sweden* hearing of these and other violent Proceedings against the Protestants, hasten'd his Preparations for *Germany*, and in the beginning of 1630 concluded upon Terms with Marquiss *Hamilton* for 6000 men.

5 Car.

The King re-
solves to send
him 6000
men.

Col. Alex.
Hamilton
and Ramsey
sent to the
K. of Swe-
den.

Execution of
the Emperor's
Edict in fa-
vor of the
Catholick
Clergy.

The sad
State of the
Protestants
in Germany.

The King of
Sweden has-
tens his Pre-
parations.

Star-

Ann. 1629.

Star Chamber Cases Ann. 1628, 1629.

Reade ver-
sus Penrud-
deck, & al.

Pasch, 4 Car. The Plaintiff and the Defendant *Seymor* being struggling together in the Field, five of the Defendants went thither armed, beat and wounded the Plaintiff, and drag'd him on the ground by the Hair: all were committed, one fin'd 40 l. the rest 20 l. a-piece.

Attorn. Reg.
versus Madye
Cler.

Scandal of
the H. Com-
mission Court
by an Answer
and Rejoinder
in Chan-
cery.

The Defendant being depriv'd by the High Commission Court, and *Parker* duly admitted to the Parsonage, the Defendant pretending he was restor'd by the general Pardon, made several Entries; *Parker* exhibiting his Bill in Chancery against him, the Defendant in his Answer alledged that the Sentence was illegal, there being neither Articles, Libel, or Allegation exhibited, nor any sufficient Proof; and in his Rejoinder, that the Sentence was contrary to the Ecclesiastical, Common, and Statute Laws, and to the Word of God; that he was partly depriv'd for preaching when suspended, when never any Suspension, nor was it a breach of God's Commandments; but he was depriv'd, that one of the Commissioners might have the bestowing of the Parsonage. Committed, fin'd 200 l. to make his Submission in the High Commission Court, the Answer and Rejoinder to be taken off the File, and in this Court to acknowledg his Sentence just.

Brinhouse
versus Poole
& al.

Trin. 4 Car. The Defendant *Sir German Poole* shot two Pistols out of a Window at the Plaintiff; and missing him, charg'd two of his Servants to kill him. Afterwards *Sir German* meeting the Plaintiff, charg'd the Defendant *Roby* and another Servant to kill him; who run him into the Cloke, but the Plaintiff drawing his Sword and defending himself, *Sir German* drew, and cut and wounded him in the Arm, whereby he lost the perfect use of his right Arm and Hand. *Sir German Poole* and *Roby* were committed; *Sir German* fin'd 500 Marks, to be bound to the good behaviour for Life, to pay the Plaintiff 500 l. Damages; and if *Sir German* not able, *Roby* to pay it. *Roby* fin'd 100 l. and if not able, *Sir German* to pay it.

Assault and
Maim.

The

The Defendant *Payn* and one *Blackmore* being in *Stafford* Goal in execution for Debt, *Blackmore* got the Under-goaler into a Room, shut him up, and took the Keys from him; and *Payn* and *Blackmore* open'd the Prison-door, and rid away with the Defendant *Bumington*, who waited for them without with Horses and Weapons. *Payn* and *Bumington* were committed, and fin'd 100 l. a-piece; but no Damages to the Plaintiff, for he had prov'd none.

Mich. 4 Car. The Defendant *Rowe* being Head Constable of *Tavestock*, offer'd to billet three Soldiers with *Fairchild* a Weaver, who being willing to take but two, *Rowe* call'd for a Sledg to break open his door; but *Fairchild's* Wife opening it, he thrust in the three Soldiers, and she desiring to have but two, the Defendant threatned her Husband should be sent away for a Soldier, and she should be hang'd by martial Law; and procur'd a Warrant from one of the Commissioners for billeting Soldiers, who dwelt five or six miles off (tho there were Commissioners liv'd in the Town) to carry *Fairchild* and his Wife to *Plimouth* before the Commissioners for Martial Law, and took of *Fairchild* a Piece of Kersey worth 4 l. 10 s. not to execute the Warrant. And the Defendant having detain'd some Billet-mony in his hands, and appearing before the Commissioners, he revil'd the Relator *Maynard* being one of them, and told him, he went to *Plimouth* to tell tales, and that he had cozen'd the Parish as little as the Relator had cozen'd the Earl of *Bedford*. The Defendant was committed, fin'd 500 Marks, bound to his good Behaviour for a year, disabled ever to be Constable, to pay *Fairchild* 10 l. for his Kersey, and 100 l. Damage to Mr. *Maynard*, and to acknowledg his Offence to Mr. *Maynard* in the Parish Church.

The Defendants *Joan Faulk* and *Tolwyn* conspir'd to accuse the Plaintiff of a Rape upon the said *Jean*; but when she was brought before a Justice of Peace, she retracted. Afterwards they having utter'd some scandalous Speeches about it, and the Plaintiff having brought his Action against them, they renew'd the Accusation, and prefer'd an Indictment against him at the Assizes, whereupon he was try'd and acquitted.

And

5 Car.

Almond ver-
sus Payn &
al.Attor. Reg.
per rel. May-
nard Esq;
versus Rowe
Gent.Extortion in
a High Con-
stable.
Detaining
Billet-Mony.
Affronting a
Commissioner.Tayler ver-
sus Tolwyn
& al.Conspiracy
to indict the
Plaintiff of
a Rape.Defendant
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Ann. 1629. And *Tolwyn* before the Assizes labour'd two of the Grand Jury to appear, telling them they should do Sir *John Henningham* a good turn, for that the Plaintiff had a great deal of Copy-hold that would come to him by Escheat, if the Plaintiff were convicted. The Defendants were both committed; *Tolwyn* fin'd 200 l. *Joan* then the Wife of *Eaton* 100 l. to be levy'd after her Husband's death; both bound to their good Behaviour during Life, and to ask the Plaintiff forgiveness at the Assizes: *Joan* to be whip'd, and *Tolwyn* disabled to be a Jurymen.

Attor. Reg.
ore tenuis
versus Heron
& Banier.

Going about
the Country
by false
Names and
with false
Tales.

False Ac-
cus.

The Defendant *Heron* becoming acquainted with the Defendant *Banier*, told him he was *Robert Rich* a Kinsman to the Earl of *Warwick*, and that he had kill'd the Duke of *Buckingham*, and fled for it: whereupon *Banier* lent him Money, call'd him Cousin, and agreed he should be call'd *John Henderson*, and afterwards let him depart without apprehending him, tho he knew his News was false. That *Heron*, by the name of *Robert Savage*, upon his examination before the Earl of *Newcastle*, confess'd himself privy to the Intention of *Felton* to murder the Duke, and accus'd several Noblemen and others of Quality to be Conspirators with *Felton*, and to have mov'd *Heron* to kill the Duke. Afterwards *Heron* being examin'd before the Lord Keeper and others of the Privy Council, affirm'd the same things; and that at *Huntingdon* Assizes he was burnt in the shoulder for taking on him to be the Earl of *Warwick*; and for taking on him the name of *Charles Percy*, was whipt in *Suffex*. But in the latter part of that Examination, he confess'd all that he said before the Earl of *Newcastle* was false, that he knew not *Felton*, and that his Name was *Heron*, not *Savage*. *Banier* was committed, fin'd 1000 l. and bound to his good Behaviour during Life. *Heron* was committed, fin'd 2000 l. to be whipt from the *Fleet* to *Westminster*, and there set in the Pillory, one of his Ears nail'd and cut off, his Nostrils slit, his Face branded with the Letter *F.* in one Check, and the Letter *A.* on the other; and at another time to be whipt from the *Fleet* to *Charing-cross*, there set in the Pillory, his other Ear nail'd and cut off, and to be kept to work in *Bridewell* during Life.

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The Defendant *Overy*, upon pretence of Title, came with the other Defendants and eighteen or twenty more where the Plaintiff's Wife with others were reaping Wheat, bound up what was reap'd, reap'd the rest, and carry'd all away; threw down the Plaintiff's Wife, struck the Tithing-man with a Truncheon, and would shew no Right to the Corn. The Defendants were all committed, *Overy* fin'd 40*l.* the rest 20*l.* a-piece, and if not able, *Overy* to pay it.

The King having by Letters Patents under the Great Seal granted a Collection for the Repair of the Port and Haven of *Rye* in *Sussex*, *Luxford* a Merchant was deputed by the Justices of Peace of *Sussex* to make the Collection in *Lincolnshire*. But the Defendant, being a Justice of Peace of that County, caus'd *Luxford* to be whip'd as a wandering Rogue, tho he shew'd both the Letters Patents, and his Deputation. The Defendant was committed, fin'd 200*l.* and to pay *Luxford* 50*l.* Damages.

The Plaintiff being charg'd with the Murder of *Mary Winkles*, the Defendant *Carleton* (notwithstanding the Coroner's Inquest had found that she died *visitatione Dei*) got from the King a Grant of the Plaintiff's Estate, and a Warrant from the L. Chief Justice to have the matter better examin'd by two Justices of Peace, which was done, *Carleton* being present, and no Cause found to suspect the Plaintiff for the Murder. Yet *Carleton* at the next Assizes prefer'd an Indictment against him, and the Jury finding *Ignoramus*, *Carleton* the next Assizes after prefer'd another Bill, and attended to prosecute it. And the Defendant *Edwards* knowing of the said Grant, labour'd with a Woman to testify the Plaintiff struck *Winkles*; and she answering she could say nothing, he sent for her a second time, and at the Assizes bid her and other of the Witnesses to have a care, for they could testify the Plaintiff struck *Winkles*. *Carleton* and *Edwards* were committed; *Carleton* fin'd 500 Marks, and *Edwards* 200*l.*

The Court confirm'd a Decree *in Fac.* for the Plaintiff's digging and graving Turfs in a Moss call'd *Oke-hanger Moss*, with divers Additions for the Plaintiff's more full Enjoyment of the said Turfs.

s Car.

Hact versus
Overy & al.
Riotous reap-
ing and car-
rying away
Corn.

Attor. Regu-
ore tenuis
versus Sir
E. Herne

Whipping a
Patent Ga-
therer.

Escourt R.
and Bar. ver-
sus Carleton
Esq; & al.
Prosecuting a
man for Mur-
der after he
had obtained
a Grant of
his Estate.

Tampering
with Wit-
nesses.

Crew R.
versus Ver-
non R.
Matter of Tru-
ste decreed.

Hall.

Ann. 1629.

Goad Esq;
versus Bain-
brig Gent.
Single Ba-
tery.

Hill. 4 Car. The Defendant came into a Room where the Plaintiff (being then Deputy Clerk of this Court) was, struck him twice in the face, whereby his Eye swell'd, call'd him Rogue and Rascal, and swore he would pull his Gown over his Ears. The Defendant was committed, fin'd 100*l.* to make his Submission to the Plaintiff at the Bar of this Court, and to pay him 100*l.* Damages.

Garton ver-
sus Mellershe
& al.

Riotous
wounding
the Plaintiff.

The Plaintiff having taken an Ox for a Herriot, the Defendant *Mellershe* pursu'd him, and struck him twice with his Spade-staff, and another Defendant with his Forrest-bill cut him on the back of his left Hand, whereby he lost the perfect use of three of his Fingers. They were all committed, two of them fin'd 100*l.* a-piece, and three 40*l.* a-piece; and if not able, the Defendant *Mellershe* to pay all their Fines, and *Mellershe* to pay the Plaintiff 400*l.* Damage in respect of his Maim, notwithstanding he had recover'd and receiv'd 100*l.* Damages before, upon an Action of Battery.

Trewcene &
Ux. versus
Fredenick.

Pasch. 5 Car. The Defendant an Under-sheriff having receiv'd two Writs of *Fieri facias* against Sir *Richard Carnesewe*, one at the Suit of the Plaintiffs, for 20*l.* debt and 50*l.* damages, the other of Mr. *Bonithon* for 16*l.* debt, did take eight Kine in execution, and sent *Carnesewe* word, he had taken them at the Plaintiff's Suit; but he had two Writs, and if he were well dealt with, he would keep them on either. And the Cattel being valu'd at 16*l.* the Defendant receiv'd 6*l.* and took Bond for 10*l.* more, and then return'd upon the Plaintiffs Writ *Nulla Bona*. The Defendant was committed, fin'd 200 Marks, and to pay the Plaintiffs Debt and Damage, if not satisfy'd before.

Under She-
riff making a
false Return.

Attor. Reg.
ore tenus
versus Maud.

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The Defendant had given out, that he had heard the King went to Mals with the Queen, and nam'd several Persons for his Authors, who being examin'd, deny'd it. He was committed, fin'd 5000*l.* to acknowledge his Offence in this Court, with a Paper on his Head declaring his Offence; the like Acknowledgment at the Bars of all the Courts at *Westminster*, at *Suffolk*, and *Huntingdon* Assizes, and at *Paul's Cross*, and the Preacher there to reprove the Raisers and Publishers of such Reports.

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The Plaintiff for filing in this Court a scandalous Bill against the Defendants, where it hath hung above three Years, and they never call'd to answer, was fin'd 100 l. and to two of the Defendants 100 l. a-piece, and to five others 50 l. a-piece Damages, and to make such an acknowledgment as shall be thought fit, unless the next Term he file a new Bill against them for the same Offence, and prosecute it with effect; the old Bill to be taken off the File.

The Defendant for publishing a Libel against Bishop *Thorabrough* was committed, fin'd 100 l. and to make his Submission to the Bishop at *Worcester* Assizes.

Several of the Defendants, with 50 or 60 others, rescu'd the Cattel of the Defendant *Rice*, which were seiz'd for a Debt due to his Majesty by the Plaintiff's Bailiffs, whom they wounded; and the Plaintiff, by virtue of a Writ to him directed, made his Warrant to his Bailiffs for seizing the Cattel, Corn, and Hay of the Defendant *Blundel*, but the Defendant's Servants and Tenents brought up the Cattel into the Court-yard, guarded the Gates with armed Men, and beat and wounded the Bailiffs, *Blundel* encouraging them: and *Blundel* being a Popish Recusant convict, hath fenc'd in a piece of Ground, and us'd it ten years for the Burial of Popish Recusants and seminary Priests. All the Defendants were committed, *Blundel* fin'd 2000 l. and to pay the Bailiffs 100 Marks a-piece Damages; the Fences of the Church-yard to be pull'd down by the Sheriff, two of the other Defendants fin'd 500 l. a-piece, three others 100 l. a-piece, and all the other Defendants besides *Blundel*, to pay the Bailiffs 40 l. a-piece Damages.

Trin. 5 Car. The Defendants being arm'd, broke through a Wall and Window into the Plaintiff's Dwelling-house, and would have kill'd his Daughter; and the Constables and Officers coming, and charging them to keep the Peace, they refus'd to obey the Constable, but broke down six Doors and divers inner Walls to come at the Plaintiff and his Brother, and then tumbld the Plaintiff down a pair of Stairs, purn'd him and cast him out of the House; and the Plaintiff's Brother being gotten into a Hawk's Mew, they

3 Car.

Do. n. Savile
versus Vice-
com. Went-
worth & al.
Exhibiting a
Libellous Bill,
and not pro-
secuting it.

Epif. Wor-
cester versus
Bowyer.
Libelling a
Bishop.

Alston Bar.
versus Blun-
del Armig.
& al.
Riotous Res-
cue of Cattel
seized, &c.

Barnes versus
Hill & al.

Great Riots
and forcible
resisting Au-
thority.

Ann. 1629.

they gave him divers Blows and Thrusts on the Breast and Belly with a Pike, drove him through a Wall into a Hay-mow, and there kick'd and spurn'd him; and the Constable supposing they had kill'd him, made proclamation, and requir'd them to yield their Bodies, which they refus'd, and *Hill* said, if *Barnes* were kill'd he would justify it; and the Constable endeavouring to go up a Ladder to apprehend them, they made divers thrusts at him, threatned to kill him, and threw him off the Ladder, then throw *Barnes* among Nettles and Weeds, would not suffer him to have any thing to wrap about him, tho he lay speechless, voiding Blood, and in danger of Death; *Hill* saying they would justify all they had done. Another day the Constables coming to apprehend the Rioters, they shot at them, and hurt one of them; and *Susan Hill* being told, the Bishop of *Hereford* being a Justice of Peace would come to remove the Force, she said, she thought he would have more wit, it was fitter for him to be preaching; and that he should have as many holes made in his black Jacket, as he had eyel holes in his Doublet: and when the Bishop came, they would let in none but him, and going forth, the Rioters would not let him come in again. They were all committed, *Hill* the principal fin'd 100*l*. some 50*l*. a-piece, some 40*l*. a-piece, and others 20*l*. a-piece, and if any of them not able, *Hill* to pay their Fines; *Susan Hill* to ask the Bishop forgiveness at the Assizes, and the Parties hurt left to the Law for their Damages.

Talbot Armig. & Glasbrooke Gent. versus Cookes Armig. & al.

Indirect Carriages in a Court Baron.

There being a Demurrer in Replevin at the Court Baron of the Plaintiff *Talbot* held before his Steward the Plaintiff *Glasbrooke*, between *Smith* and the Defendant *Thomas Cookes*, the said Defendant with *Edward* and *Henry Cookes*, two of the Suitors and Judges of the Court, came there and heard the Arguments on both sides upon the Demurrer; which ended, *Glasbrooke* the Steward told the Suitors, that the matter in question was matter of Law, and seem'd doubtful in divers points, and therefore wish'd them to be advis'd before they gave Judgment. Whereupon the Defendant *Edward Cookes* violently commanded the Steward to enter Judgment for *Thomas Cookes* the

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Avowant, which he refus'd to do, for that the major part of the Suitors would be advis'd: and *Thomas Cookes* having after joining in Demurrer su'd forth a Plaint of Assize of fresh force against *Smith*, for the same Rent for which he formerly distrain'd, and the said Plaint being to be try'd the same day the Demurrer was to be argu'd, the same was continu'd to the next Court day; and twenty four Tenents being summon'd and return'd, and some not appearing at the third call, *Thomas* and *Henry Cookes* went to several of the Recognitors return'd, and desir'd them to appear on the Jury, and to give their Voices for their Judgment upon the Demurrer, and one of them being unwilling to come, *Henry Cookes* promis'd to save him harmless; and thereupon a full Jury appearing, the whole Array was challeng'd, and the Challenge allow'd. Which the Defendants seeing, *Edward Cookes* the elder and *Edward Cookes* the younger again bid the Steward enter Judgment for the Avowant upon the Demurrer, which he refusing for the reason aforesaid, they with great Oaths vow'd he ought and should enter Judgment; and *Henry* and *Thomas Cookes* went about to some of the Suitors to get their hands to a Note, that Judgment should be enter'd for the Avowant. They were all committed, the two *Edward Cookes* fin'd 200 l. a-piece, and *Thomas* and *Henry Cookes* 40 l. a-piece.

The Defendants in *December* about nine at night kept such a rapping at the Door and lower Windows of Mr. *Richardson* in *Durham*, as frighted his Wife; and one *Rangel* going out of the House with a Ruler, they took it from him, struck him therewith in the Face to the Effusion of Blood, and kick'd, spurn'd, and pursuing him, struck him again. The three *Craddocks* Defendants were committed, fin'd 40 l. a-piece, and bound to their good Behaviour for a Year, and the Party hurt left to Law.

The Defendant *Cunningham* being a Sergeant of *London*, made several Arrests of the Relators, most of them occasion'd by himself, to extort Mony from them; and procur'd one of them to be arrested in *Westminster* Liberty, and then carry'd into *London*, and charg'd with Actions there. He was committed,

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Attorn. Reg.
versus Crad-
dock & al.

Rout and
Assault.

At. Reg. pet
rel. Clifford
& Sain. leger
Arm. versus
Cunningham
& al.
Extortion in
a Sergeant,
&c.

Ann. 1629.

Bro'man
versus Wil-
kins, & al.

Perjury.

Attorn. Reg.
versus Yeomans, & al.
False and
corrupt dying
of Silk.Morgan Kr.
versus Morgan & al.Shirley Bar.
versus Chetwin Arm.Single Battery on a
Justice of Peace.Still. Cler.
versus Owen Gent.
Single Battery on a
Bailiff.

fin'd 500 l. bound to the good Behaviour, and disabled to execute any Office.

Mich. 5 Car. The Plaintiff having obtain'd a Judgment against the Defendant *John Wilkins* for 163 l. 1 s. on the Statute of Usury, agreed to accept of 55 l. for his Moiety, leaving him to agree for the King's Moiety as he could; which *Wilkins* being afterwards forc'd to pay, he brought an Action against the now Plaintiff, upon a pretended promise that he would discharge *Wilkins* of the whole Judgment; and at the Trial brought the Defendants *Nicholas Wilkins* and *Nicholas Wilcox*, who swore to the Promise, tho' *John Wilkins* knew they were not present at the Agreement. The Defendants were all three committed, the two Witnesses fin'd 200 l. a-piece, bound to their good Behaviour, disabled to be Witnesses, and to be set in the Pillory in *Westminster* and *Taunton*; *John Wilkins* fin'd 300 l. and all of them to pay the Plaintiff 150 l. damages.

The Defendants Yeomans *Andrews* and *Wright* being Silk-dyers, dyed great quantities of Silks, with false and corrupt Dyes, whereby the Weight was much increas'd, but the Silk much worse. They were committed, fin'd 500 Marks a-piece, and before enlargement to give Bond, with good Sureties, never to offend again in that kind.

The Defendants being arm'd, assaulted and wounded the Plaintiffs Son in *Abergavenny*, and had murder'd him, if not prevented; they were committed, and two of them fin'd 50 l. a-piece.

There having been long discontent between the Plaintiff and Defendant, and the Plaintiff a Justice of Peace, the Defendant went into the Plaintiffs Grounds where he was walking alone, and beat and grievously wounded him with a Truncheon: The Defendant was committed, fined 200 l. bound to his good behaviour during Life, to pay the Plaintiff 500 Marks damage, make his acknowledg'ment to him in writing, pronounce the same at the Assizes, and there ask him Forgiveness.

The Defendant having kicked one *Everes* a Bayliff and with a Staff struck him a blow on the Ear that bled much, and further threatned him for summoning him

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him to serve on a Jury at Sessions, where the Defendant was amerced for Non-appearance; and the Plaintiff granting a Warrant to apprehend him, the Defendant came to the Plaintiff's House, asked him how he durst grant a Warrant against him, told him he lied, called him Knave and Rascal Knave, said he car'd not a Part for him, and he was as good a man as himself; and the Plaintiff requiring him to find Sureties for his good Behaviour, he refus'd, and flourishing his Staff over his Head, said, he would see who durst stay him, and so departed. He was committed, fin'd 400*l.* bound to his good Behaviour five years, to make his acknowledgment at the Assizes, pay the Plaintiff 100*l.* damage, and his scandalous Answer to be taken off the File.

Hill. 5 Car. The Defendant affronted the High Sheriff at an Election of Knights of the Shire, and being a Deputy-Lieutenant, maliciously repress'd one of his Bayliffs after he was sent home by a lawful Pass, and said of Sir Robert Phillips upon the Bench, that his Certificate was a Lie, a base Lie, and a false Lie, that he would maintain it to be a Lie with the best Blood in his Body, and that as good a man as Sir Robert Phillips or a better would maintain it to be a Lie: he was committed, and fin'd 200*l.*

The Defendants out of malice to the Plaintiff, for that he had caus'd one *Jemmet*, an unconformable Minister, to be put from being Lecturer of their Parish, rais'd a Fame that the Plaintiff had ravish'd or attempted to ravish a Woman at *Sandford*, went some of them thither, and found out a Woman that told them, the Plaintiff had attempted her Chastity: And the Defendant *Tates* told her, she might drink 10*s.* if she would justify it, and gave her 2*s.* and after came again, and told her, a bare attempt would not turn the Plaintiff out of his Living; but if she would testify a Rape, it should be worth her 40*l.* and gave her 5*s.* and told her Maid, if she would testify a Rape, she should be as well paid as her Mistress. At length, they got the Woman to consent to go to *London*, to accuse the Plaintiff of a Rape before the Lord Chief Justice, and gave her 20*s.* in hand; but her Husband hearing of it, dissuaded her. The Defendants were

5 Car.

Reviling a Justice of Peace.

Attorn.Reg. per rel. Phillips Kt. vers. Stawel Kt. Affronting a High Sheriff.

Giving the Lie on the Bench.

Phillips Cler. versus Eyres & al.

Conspiracy to accuse a Minister of a Rape.

Ann. 1629. committed, fin'd 500 l. a piece, bound to their good Behaviour; *Tates* set in the Pillory, all of them to ask the Plaintiff Forgiveness in his Parish-Church, and to pay him 200 l. damage; only the Lady *Lawrence* and two more not sentenced, but severely reprehended: and it being in the Proofs, but not in the Bill, that she had turned up the back Parts of the Child at the Font, when the Plaintiff should have signed him with the Sign of the Cross, she was refer'd for that to the High Commission Court.

Attorn. Reg.
vers. Hoskins
& al.

Riotous de-
stroying In-
closures in a
Forest.

His Majesty having disafforested the Forest of *Gillingham*, in *Com. Dorset*. allotted several Shares to the Commoners, and let his part to Sir *James Fullerton*, who inclos'd the same. The Defendants sometimes 100 in a Company, all arm'd, and most disguis'd, met several times, threw down the Fences, burnt the Plants, threaten'd to kill the Workmen and burn their Houses if they came to work there, beat two of his Majesty's Messengers who had apprehended some of them, and rescu'd the Prisoners. All of the Defendants were committed, 30 fin'd 200 l. a piece, 35 fin'd 100 l. a piece, and the 30 and 35 bound to their good Behaviour for two years; 9 fin'd 40 l. a piece: All to pay 200 l. damage to Sir *James Fullerton*, the Rescuers and Rescu'd to pay 30 l. a piece to the Messengers: *Hoskins* the Colonel, *Alford* the Captain, *Cave* the Lieutenant, and *Miller* the Corporal of the rebellious Troop, to be set in the Pillory at the Assizes in *Dorset*, *Wilts* and *Somerset*.

Ann. 1630.

Bp of Kil-
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ter of the in-
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pery, and de-
cay of Churches in Ire-
land.

The Bishop of *Kilmore* in *Ireland*, by his Letter to the Bishop of *London*, dated *Apr. 1. 1630*, gave this account of the Church-Affairs of his Diocess and the Parts adjacent: That the State they were in was very miserable; the Cathedral of *Ardagh* and Bishop's House down to the Ground; his own Church had neither Bell, Steeple, Font or Chalice; the Parish Churches unroofed and unrepaired; the People, save a few *British* Planters, obstinate Recusants; the Popish Clergy far more numerous than the other, and in the full exercise of all Ecclesiastical Jurisdiction, and excommunicate those who come to the Bishop's Court; the Popish Primate lives in his Parish, and the Bishop in another part of his Diocess; every Parish hath a Priest

Priest, some more, and so their Mass-houses, and Mass is said in some Churches; the Friars by their begging impoverish the People.

The King issued out a Proclamation, dated *April 6* wherein he said, that the Kings and Queens of this Realm have had the Happiness by their sacred Touch and Invocation of the Name of God, to cure the Disease call'd the King's Evil, and he himself hath had as good Success as they, and is willing to continue it; but fit times must be observ'd, and those shall be for the future: *Easter and Michaelmas.*

April 10. died *William* Earl of *Pembrook*, being 70 years old. He was told long before of the time of his Death by the Lady *Davis*. He came home the night before in perfect health, and said he would never trust a Woman Prophetess for her sake; but died of an Apoplexy before eight next Morning. That Lady told a greater Person than this Earl, that great misfortunes would befall him, for which she was some time imprisoned. His Brother *Philip* Earl of *Montgomery* succeeded him in the Earldom, and the Bishop of *London* in the Chancellorship of *Oxford*.

The Ministers of *York* having shew'd their Obedience to the late Instructions for the Clergy, the 24th of *May* address'd to the Archbishop of *York*, and the Lord President of the *North*, for a more ample Allowance; which the Privy Council taking notice of, and concluding upon the same course as is held in *Norwich* (where they are allow'd one penny in the shilling according to the yearly rent of the Houses) tho' not exactly restrain'd to that proportion, they writ to the Archbishop and Lord Mayor of *York*, and Lord President of the *North*, and six of the antientest Aldermen, to consider how the wants of those Ministers might be supply'd, by a competent sum out of every Man's House-rent.

The King issued out a Proclamation, dated *May 27* taking notice of a former Proclamation of *Decemb. 6. Anno 4.* wherein he declar'd he had granted a Commission to several Lords and others, to confirm to his Subjects their defective Titles to their Estates and Possessions, in such Mannors and Lands which they enjoy'd, whether by insufficient Grants, Letters, Patents of Concealments,

6 Car.

Proclamation concerning the Cure of the King's Evil.

Death of William Earl of Pembrook foretold.

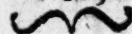
Bp of London Chancellor of Oxford.

The conformable Ministers of York address for a more ample allowance.

Privy Councils Order thereupon.

Proclamation touching defective Titles.

Ann. 1630.



concealments, or merely by Intrusion and Usurpation, without any Grant at all; and yet not settled by the Act of Parliament of King James, entitl'd, An Act for the general Quiet of the Subjects against all pretences of Concealments: which Offer of his being neglected, he might in Justice reduce those Mannors and Lands to the Crown. Nevertheless, he hath now renew'd and enlarg'd his said Commission of Grace to sundry Lords and others, authorizing them to compound with his Subjects for any Mannors, Lands or Hereditaments of the Natures and Qualities express'd in the Schedule annex'd; but those whom it concerneth shall not by next *All-Saints-day*, attend the Commissioners for compounding as aforesaid, his Majesty will stay no longer, but either take a course for recovering such Lands, or to grant them over to others. And his Majesty has appointed *Robert Tipper of Gray's Inn* to attend the said Commissioners, to acquaint them with the state of the several Cases of those that shall seek such Composition, and who do accept his Majesty's Grace, and who not. Instructions were also given to the said Commissioners, how to proceed and make such Compositions, whereby they were empower'd to compound for all Mannors, Lands and Hereditaments, held under colour of any defective, void or insufficient Grant, or under Letters Patents of Concealment or otherwise, intruded upon or usurped without any Grant by his Majesty, or his Predecessors; for all Mannors, Lands and Hereditaments granted (tho' insufficiently) in Tail from the Crown, and whether the Estate Tail be spent or not, and for Remainders, and Reversions depending thereupon, except what *Sir William Hayton* had power to compound for; for all Messuages and Cottages which are Encroachments, assart Lands, Improvements, Inclosures, wast Grounds, Moors, and Heathy Downes; for all Lands (with the Tenements thereon) recovered or deserted, or to be recovered or deserted by or from the Sea; for all Mannors and Lands committed to custody, or whereof the Leases are determin'd and yet detain'd from the Crown; for all void or defective Charters of Incorporations, Grants of Offices forfeited or determin'd, Offices us'd without

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 held, intruded upon, incroach'd or wasted, and all
 the Damages for the same: for all Rents and Annual
 Payments: for all Mannors, Lands and Heredita-
 ments which ought to be in Charge, and are not, but
 only a Fee-farm-rent answer'd in lieu of the Lands,
 or where both Lands and Rents are in charge, and the
 Rents answer'd, but never any Grant of the Lands;
 or where the Lands stand in charge as Lands, yet the
 Rents stand not in charge, nor yet answer'd to the
 Crown. And the said Commissioners are to grant any
 of the Premises in Fee-simple, Fee-farm, Fee-tail, for
 Life or Years to the present Possessors, or to make
 them Releases and Discharges; but upon their refusal
 or neglect, may sell to others. And for the surrounded
 Grounds, where no present Possessors, they may sell
 them to such as will compound for them: the Tenure
 to be the same as formerly, if it appears on Record,
 otherwise Socage Tenure.

May 29. Prince Charles was born at St. James's; a
 little before one in the Afternoon: At his Birth, at
 that time of the day, a Star appear'd visible, when
 the King rode to St. Paul's Church to give Thanks for
 the Queen's safe Delivery. Some said it was the Planet
 Venus, others Mercury, of whom Merlin prophesied,
 The Splendor of the Sun shall languish at the Paleness
 of Mercury, and it shall be dreadful to the Beholders.
 The next day the King writ a Letter to the Bishop of
 London, giving him notice of the Prince's Birth.

There had pass'd from hand to hand a Paper, enti-
 tul'd, *A Proposition for his Majesty's Service, to bridle*
the Impertinency of Parliaments, which consisted of
 two parts, the one to secure his State and bridle the
 impertinency of Parliaments; the other, to increase
 his Revenue. Touching the first, nothing is more im-
 portant to strengthen his Authority, than to have a
 Fortress in every chief Town furnish'd with Ord-
 nance, Ammunition and faithful Men, ordering the

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To have a  
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Trained Town.



*Ann. 1630.* Trained Bands to be dependent on the said Fort, and their Arms to be kept there, whereby the Countries will be in no less subjection than the Cities. The reasons for this are: 1. Force is a greater tie upon the People than Love, whereby the Government is secure no longer than the People are contented. 2. Subjects can be no more presumptuous than his Majesty will permit them. 3. To leave a State unfurnish'd, is to give the Bridle to the Subject. 4. Modern Fortresses take long time in winning, and no Subjects have probable means to attempt them. 5. It is a sure Remedy as against Rebellions at home, so against Foreign Invasions, when the King cannot be forc'd to the doubtful Fortune of a set Battel. 6. The Parliament will be forc'd to alter their Stile, for their Opposition will import nothing when the Power is in the King's hands. To make his Majesty more powerful, these Orders are to be observ'd: 1. None to wear Arms or Weapons but whom his Majesty allows, and they to be enrol'd. 2. That Highways (as much as may be) be made passable thro the fortified Towns. 3. The Soldiers of Fortresses to be sometimes of another Nation, subject to the same Prince; however, not to be born within 40 or 50 miles of the Fortress, nor have any Friends near it. 4. Each walled Town not to suffer unknown Passengers to pass without a Ticket, the Gates kept shut all night, and the Keys deliver'd to the Mayor or Governor. 5. Innkeepers to deliver the names of unknown Passengers. To save charge, where a Town hath a ruined Castle, it may be repair'd, adding Bulwarks and Rampiers, and the Ordnance for these Forts may be of Iron. To maintain these Forts 3000 men will be sufficient, which will require about 40000 l. per annum: All which added to the invincible Sea-force his Majesty hath, will make him the most powerful King of the World. He proposeth an Oath for every Subject to take, upon pain of High Treason, to this purpose: That the King is as absolute a Monarch as any other Christian Prince, and his Prerogative as great, whereby he may, by his Proclamation make Laws, or reverse any made, and that without Consent of Parliament. How necessary it is to prevent the Usurpations of Parliaments, appears by the

*Weapons to be prohibited.*

*The Soldiers no Inhabitants.*

*The names of Lodgers in Inns.*

*Expence of these Forts.*

*Oath to be imposed.*

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the example of King *Lewis XI.* who met with the like  
opposition as his Majesty doth, and by his Wisdom  
suppress'd it: That he is not for putting down Parlia-  
ments altogether, but to abridg them so far as they  
derogate from his Majesty's Authority and Greatness.  
This Oath may be tendred near about one time over  
the Land, so as there be no time for Combination,  
and it may find less Opposition. As to the second  
Point, the increase of his Majesty's Revenue, which  
is the more necessary, for that the expences of Princes  
are now greater than they were in times past, he offers  
these Expedients: 1. A Decimation or tenth part of  
all Mens Estates according to the true value, whether  
in Lands or Money, which is practis'd in *Italy*, and  
will yield the King more than Subsidies, Fifteens, &c.  
usually do, by 500000 *l. per annum* at least. 2. For  
the King to buy out all Estates and Leases of his own  
Lands, so as the Parties be no Losers, which will come  
but to a small matter, considering the Gain they have  
already made upon the Land, whereby the Lands be-  
ing free, the King may let them at a full value. By  
this course, if the Lands are now let at 60000 *l. per*  
*annum*, they will yield 200000 *l. per annum* at least.  
3. The King (as other Princes do) to take the benefit  
of Salt into his own hands, by buying it at the lowest  
Price, and venting it at double that Price: This would  
yield 150000 *l. per annum* at least. 4. To impose  
6 *d.* on every sealed Weight and Measure: This  
would yield the King near 60000 *l. per annum*. 5. To  
levy an Impost (as in *Spain*) upon Wool: This at 5 *l.*  
*per centum*, according to the true value, would yield  
140000 *l. per annum*. 6. The Party who has gain'd  
a Sentence at Law to pay 5 *l. per centum* of the  
true value that the Cause has gain'd him; in recom-  
pence whereof to limit the Lawyers Fees and Get-  
tings, which are excessive, whereby the Subject shall  
save more than he giveth the King, and the King will  
gain 50000 *l. per annum*. 7. Every of the chief Inns  
and Taverns to pay 10 *l.* the other 5 *l. per annum* to  
the King, and every Alehouse 20 *s. per annum* more  
or less, as in custom: This may yield 100000 *l. per*  
*annum*. 8. A Tax of 3 or 4 *l. per centum* on all Cat-  
tel or Flesh, and Horses sold in Market, Fish and other  
Virtuals

6 Car.

Ways to  
raise Money  
annually.Decima-  
tion.To buy out  
Leases of  
Crown-  
Lands.To take the  
Salt into  
the King's  
hands.Impost on  
Wools.Suits at  
Law tax'dLicence for  
Inns, &c.Tax on  
Cattel, &c.

Ann. 1630. *W* Victuals (Bread excepted) which may be worth 200000 *l.* per annum; and if Flesh, Fish and other Victuals were sold by weight, it would save the Subject more than the Imposition impaireth him. 9. In *Tuscany* is a Taxation of seven per cent. upon alienation of Lands, and all Dowrys or Marriage Monys: This in *England* would yield the King 100000 *l.* per annum at least; and in recompence of these Taxes the King may release Wardships, take the Forfeiture of Goods only, not Lands, High Treason excepted; allow Counsel in Capital Crimes, and the Party not to be condemn'd without two Witnesses, &c. By the like courses, in *Ireland* and *Scotland*, the Revenue may be increas'd more than it is by 200000 *l.* per annum. 10. All Officers to be made by his Majesty; Notaries, Attornies, &c. to pay the King a part yearly: This in time may be worth 100000 *l.* per annum. 11. To reduce the King's Household to Board wages (as most other Princes do) This will save him 60000 *l.* per annum; and ease the Subject in Carriages and Provision; and there is a way to save 40000 *l.* at least in the Navy. 12. To prohibit eating Eggs, Cheese and White meats, on such fasting days as the Laws do command to be kept, but by such only as pay 18 *d.* a year, and the better sort 19 *d.* 13. To raise 200000 *l.* per annum upon the Catholicks, which may be safely done, and with their good liking: but this requires a long Discourse. The Totals of this Account is 2000000 *l.* per annum. Besides these things he offers ways of raising present money. 1. By the Prince's Marriage to make all the Earls Grantees, as in *Spain*, they paying 20000 *l.* apiece for it. 2. Earls to be made Feudatories of the Towns belonging to their Earldoms, as at *Naples*; and Barons to be made Earls, paying 10000 *l.* apiece: These things may yield 500000 *l.* to his Majesty. 3. 200 of the richest Men, not Noblemen, to be made Titulades, as in *Naples*, paying for it, an Duke 30000 *l.* a Marquis 15000 *l.* an Earl 10000 *l.* a Baron or Viscount 5000 *l.* but the Peers to precede them: To make Gentlemen of low Quality, Franklins and rich Farmers, Esquires, to precede others, which would yield a great Sum. He hath another way to raise the King 300000 *l.* but the time serveth

And Lands  
alienated.

And Offi-  
cers, &c.

King's  
Household  
at Board-  
wages.

Licences to  
eat White-  
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serveth not as yet. These Courses would make the King, the richest King England ever had, and secure him, and detect many Disorders and Abuses in the publick Government; and the prohibiting costly Apparel to be worn but by Persons of good Quality, will save the Gentry more Money than they will be taxed to pay.

An Information was prefer'd in the Star-chamber by the Attorney-General, against the Earls of Bedford, Clare and Somerset, Sir Robert Cotton, Mr. John Sel- den, Mr. Oliver St. John, and others, as Publishers of this Paper. The Cause came to hearing on the said 29th of May, and the Answer of the Earl of Somer-

set was open'd by his Counsel to this effect: That the said Discourse was he believ'd the same that was shew'd him in the time of his attendance near K. James, or hath many of the same things in it, and being made in a former Reign, and not apprehending it could reflect on his Majesty, he casually imparted it to the Earls of Bedford and Clare, whose Opinions were, That it was a Phantastick Project of a Brainick Traveller, who had made Collections in Italy, no way suitable to the Government of this Kingdom: That he had never any other Conference with them about it, nor with any other Person; denied he contriv'd it, or knew of the contriving it, nor ever imagin'd his Majesty would put in execution any part of the said Discourse, and the reason why he did not present it to his Majesty or the Council, was, because it did not concern his Majesty's Government, it appearing to be contriv'd before: That about 16 or 17 years since, Sir David Fowles shew'd him the Project, to whom he reply'd, he was satisfy'd no use could be made thereof: That the divulging thereof was pardon'd by the Coronation Pardon. The rest of the Defendants denied the contrivance, alledg'd the Author liv'd beyond Sea, and writ it in the time of King James: They rejected the Discourse as soon as they read it, and detested the Project. By the Deposition of Sir David Fowles, it appear'd that he receiv'd it from one Mr. Yates in the time of King James, who brought it from Sir Robert Dudley at Florence, with a Letter, desiring him to deliver it to the Earl of Somerset, to shew to K. James, which

6 Car.

The Propo-  
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chamber.

The Defen-  
dants An-  
swer.

Sir David  
Fowles's  
Deposition.

Sir Rob.  
Dudley the  
Author.

Ann. 1630.

*The Cause comes to be heard, but the hearing staid, &c.*

*Articles agreed on by the King of Sweden.*

which was done; and the Earl in his hearing express'd a dislike thereof, and return'd him the Original. It appear'd also that nine years since this Discourse was bought in *Little-Britain*, among other Manuscripts. During the hearing of the Cause, a Message came from the King to the Lord Keeper, who thereupon declar'd, that altho the matter was of so high a nature as was necessary to be brought in question, yet the Author being discover'd to live beyond the Seas, and some of the Defendants being Noblemen, whom his Majesty esteems, his Majesty finds them fitter Objects of his Mercy than Justice, especially at that time when a Son was born to him; that the Court was to proceed no further. But the Project or Paper was burnt, and the Proceedings taken off the File.

*May 31. Gustavus Adolphus King of Sweden signed the Articles agreed between him and the Marquis of Hamilton, to this effect, viz. That the Marquis having out of his Zeal for the publick good, and for acquiring eternal Fame, resolv'd to devote himself, his Fortunes and Forces, for restoring his (the King's) oppress'd Friends in Germany, and offer'd at his own expence to raise 6000 men, either against the Imperialists, or any other of his Enemies, and maintain them at his own Charge; he (the King) hath admitted him into his Service, Armies, and Military Councils, on the following Conditions: 1. He shall assign him a place for his Landing. 2. And send him 4000 Foot for strengthening his Landing, furnish them with all Necessaries, and maintain them 2 years at his own Charges. 3. He shall endeavour to raise 2000 Horse to be join'd to the Marquis's Foot, and to be maintain'd by the King. 4. The Marquis in the King's absence shall have the Command of this Army, and the King will join to him a Person to consult with. 5. The Lands and Territories taken by the Marquis from the Enemy shall belong to the King, but the Revenues and Profits shall go to the Marquis, and to the relief of his Army. 6. For the making those warlike Instruments of the Marquis's Intention, the King shall furnish him with 100 Ship-pounds of Grade Iron, and assign Hammers for working it. 7. And shall provide him 370 Ship-pounds of Iron Balls for*

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for his Guns, and 2500 Pikes, and as many Musquets.  
8. When the Marquis needs Gun-powder, the King  
shall assign him Bills of Exchange in *Holland* for buy-  
ing 72 Ship-pounds. 9. Whatsoever other Kings or  
States contribute, shall be at the King's disposal; but  
if the Marquis need further assistance, the King shall  
afford it him. 10. The Marquis promises Fidelity to  
the King, for which he and his Captains shall be par-  
ticularly engag'd. 11. If a Peace shall be concluded  
between the King and Imperialists, upon the present  
Treaty at *Dantzick*, the Marquis shall pay for the  
afore said Materials at their full value.

To these Articles the Marquis made this Return,  
dated *March 1. viz.* 1. If the King assign him  
a place for Landing, he promises to do it between that  
and the day of *June* next. 2. He understands  
a full and entire pay, without any deduction for the  
number of Soldiers the King shall send him, is to be  
laid down for a whole year, according to his Majesty's  
establishment; and if the King cannot allow of so  
great a diminution of his Forces, it will be necessary  
for him to settle a Fund for such a sum as may levy,  
arm, and pay as many. 3. The Article of the Horse  
being conceiv'd in general Terms, it will be expedient  
for the King to declare how far he will oblige himself.  
4. The Marquis is willing, that what he takes from  
the Enemy shall be entirely the King's. And, 5. That  
whatever any shall contribute shall be laid out for this  
War.

An Information was formerly exhibited in the Star-  
chamber against *Alexander Leighton*, a *Scotchman* and  
Doctor of Divinity, for writing a Book, entitul'd, *An*  
*Appeal to the Parliament, or a Plea against Prelacy*,  
which he printed during the last Parliament, and de-  
liver'd to divers Persons: And he was charg'd in the  
Information for setting forth therein, 1. That we read  
not of greater Persecution of God's People in any  
Christian Nation than in this Island, especially since  
the death of *Queen Elizabeth*. 2. He terms the Pre-  
lates Men of Blood, and Enemies to God and the  
State; that the establishing Bishops by Law is a Mas-  
ter-sin, and Ministers should have no Voices in Council  
deliberative or decisive. 3. The Prelacy is Antichristi-

Marqu. of  
Hamil-  
ton's Re-  
turn to 'em.

Informati-  
on against  
Dr. Leigh-  
ton.



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an and Satanical; the Bishops, Ravens and Magpies.  
 4. The Canons of 1603. nonsense. 5. He condemns  
 that Spawn of the Beast, kneeling at the Sacrament.  
 6. That Prelates corrupted the King, and the Queen  
 was a Daughter of *Heih*. 7. He commends him  
 that murder'd the Duke of *Buckingham*, and encourages  
 others in the like attempts. 8. He saith, all that pass  
 by us spoil us, and we spoil all that rely upon us, and  
 instances in the black pining death of the famish'd *Ro-*  
*chellers*, to the number of 15000 in four Months.  
 9. Saith, The Church hath her Laws from the Scrip-  
 tures, and no King may make Laws in the House of  
 God; for if they might, the Scripture would be im-  
 perfect. 10. He saith it is pity, and will be an inde-  
 lible dishonour to the States Representative, that so in-  
 genious and tractable a King should be so monstrously  
 abus'd, to the undoing of himself and his Subjects.

*His An-*  
*swer.*

The Defendant in his Answer confess'd the writing of  
 the Book, but with no such Intention as is suggested,  
 his end being only to remonstrate certain Grievances in  
 Church and State, that the Parliament might take  
 them into consideration and redress them. The Court  
 now proceeded to Sentence, and declar'd, That it ap-  
 pear'd upon proof the Defendant had printed 5 or  
 600 of the Books; that he had committed a most he-  
 nous Offence by his Assertions, to the scandal of the  
 King, Queen, and Peers, especially the Bishops. The  
 two chief Justices declar'd, that they would have pro-  
 ceeded against him for Treason, if it had come before  
 them; and other Lords, that it was his Majesty's  
 Mercy and Goodness he was not question'd as a Traitor.

*His Sen-*  
*tence.*

His Sentence was, To be committed to the Fleet  
 during Life, fin'd 10000 l. refer'd to the High-Com-  
 mission to be degraded; that done, to be brought to  
 the Pillory at *Westminster* (the Court sitting) and there  
 whip'd; and after whipping, to be set in the Pillory,  
 have one of his Ears cut off, one side of his Nose slit,  
 and be branded on one Cheek with the Letters S.S.  
 for a Sower of Sedition; and another day be brought  
 on a Market-day to the Pillory in *Cheapside*, there like-  
 wise whipt, and have his other Ear cut off, and the  
 other side of his Nose slit. *November 4.* he was de-  
 graded, but the Evening before the Sentence was in

part

part to have been executed upon him, he escaped out of the Fleet; whereupon the Privy Council sent a printed Hue and Cry after him, requiring all Justices of Peace, Mayors, Sheriffs, &c. to use all diligence for apprehending him, describing him to be of low Stature, fair Complexion, a yellowish Beard, high Forehead, and between forty and fifty Years of Age: This Hue and Cry followed him into *Bedfordshire*, where he was apprehended, brought again to the Fleet, and the Sentence executed. All which Bishop *Land* then Bishop of *London* noted in his Diary; and that when he was brought to *Cheapside* for the latter part of his Sentence, his Sores upon his Back, Ear, Nose and Face were not cured. This unfortunate Gentleman was well known both for Learning and other Abilities, but his intemperate Zeal (as his Countrymen then gave out) prompted him to that mistake. Afterwards they who procured his escape were taken and proceeded against in the Starchamber: It appeared that *Livingston* put off his Cloak, Hat and Breeches all of a Grey Colour, and *Anderson* his Doublet, and *Brighton* put theirs on, and in that disguise they all went out of the Fleet unsuspected: For these Offences, and in respect of their Penitence, they were only fined 500*l.* apiece, and committed to the Fleet during the King's Pleasure.

King *James* having by his Letters Patents granted to *John Chamberlain* his Physician, and *Edward Brown* Esq; a new Office of Receiver and Collector of Fines and Forfeitures; The present King having confirmed them, wrote *May 13th*, to the Judges to consider of Orders to be made for the better Execution thereof. In answer whereunto the Judges writ to the Lord Keeper and Lord Treasurer, acquainting them, that they found the Patent both against Law, and his Majesty's Profit, and therefore could not easily make Orders for the Execution of it: and with their Letters sent a Note of the Excesses and Irregularities of the said Letters Patents.

The King of *Sweden* before he came in Person with an Army into the Empire, made this publick Declaration. That he meant no Hostility to the Empire or Person of the Emperor; but his coming was principal-

6 Car.  
He escapes.  
Hue and Cry after him.

Is retaken,  
and the Sentence executed.

The procurers of his Escape

Sentenced.

A new Office of Receiver.

The Judges opinion concerning it.

K. of Sweden sets forth a Manifesto.

ly

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ly to relieve his Cousin and Confederate the Duke of *Stetin* and *Pomeran*, injuriously oppressed by the Emperor: That he is engaged by antient Alliances to aid the State of *Pomerland*, and it concerneth him in Policy not to suffer the Duke's Enemy to be Master of those Coasts of the *Baltick* Sea, whence he might at pleasure invade it. But this way working no redress, he printed an Apology, with the former Circumstances enlarged, and further declaring, That having been invited to the relief of his oppressed Neighbors and Confederates, he had expected the Emperor's goodness towards the Subjects of *Germany*, rather than to interest himself against him; that the Emperor began the Quarrel, in the late Wars between *Sweden* and *Poland*, denying the first any Men or Ammunition from *Germany*, but granting it to the latter: That the Emperor had in 1627 and 1630 sent two Armies into *Prussia*, in aid of the *Pole* his Enemy: His Packets had been fray'd; his Letters to *Bethlem Gabor* opened, and false Copies published: His Ambassadors had been slighted, not admitted to Audience, nor vouchsafed an Answer, but forbidden to stay in *Germany*: That seeking of Peace by the mediation of the King of *Denmark*, he met with nothing but Affronts and Delays; and writing to the College of Electors, the main Point was not once toucht on in their Answers: That *Stralsond*, notwithstanding it had no way wronged the Emperor, had been blocked up by *Wallesteyn*, and the Island of *Rugen* taken by him: That it concerns him not to let that Island and Town be possessed by his Enemies, they lying so commodiously for commanding the *Baltick* and infesting *Sweden*: That the Emperor had molested those Coasts with Shipping, and had hindred the *Swedish* Trade. In June the King of *Sweden* with his Army at Sea landed at a Village in the Isle of *Usedom*, not far from *Stralsond*: In the beginning of July, Embassadors came to the King from the Duke of *Mecklenburg*, *Pomeran*, and the Town of *Stralsond*, from whence the King transported his Army to *Stetin*, which yielded to him.

He lands  
his Army.

*Stetin* sur-  
rendred.

His Majesty wrote to his Sister the Queen of *Bohemia*, assuring her he would hasten the Marquis of *Hamilton* with an Army of 6000 men to assist the

*Swede*



Swede, and that he was in hopes by the Spaniards means to get the Palatinate restored: whereat the Queen was highly dissatisfied, knowing how her Father had been deluded: but the King to pacify her, writ her a Letter to this Effect, That he found his last had troubled her more than he could have imagined, tho he suspected it would at first a little startle her: That it is impossible in that unfortunate business, for others to give or take a Counsel absolutely good: That (as he takes it) she apprehends, that if he makes a Peace with Spain it will hinder the Assistance of their Friends, and lay his Arms asleep: As for their Friends, France and Holland, they cannot be further from doing her good, than now they are, for they both deny that the League was made for the Palatinate and Liberty of Germany; so that the Treaty of Spain is not the cause Sweden is to be dearth'd, and by a Peace with Spain she will be the better helped and encouraged: That Spain promises as much as he (the King) can ask for her entire Restitution, and confesseth, That if he fail in Performance, there is a just cause to renew the War upon him; That if the Peace be made, he shall do his utmost to engage his Friends in an offensive and defensive League for the Palatinate, and Liberty of Germany: And yet all this while, the Peace with Spain is so far from being concluded, that as yet he hath not seen a draught of the Articles. He assures her what he shall do therein, will be chiefly for her Service.

Ramsley had in Commission to treat with any English or Scottish Officers, beyond Sea, to serve under the Marquiss of Hamilton, and dealt among others with Mackay Lord Reay to engage in his Service, which he cordially undertook. And Ramsley, and Colonel Hamilton returning from the King of Sweden, the Marquiss went about levying his Men, and all was according to the King of Englands Order and Instructions, tho his Majesty seem'd only a Consenter to it, and many were backward because the King owned it so little. As for money the King advanced a good Sum, so far short of what was necessary, but he gave the Marquiss a lease of the Customs of the Wines in Scotland for 16 Years, upon which Security he and his

The K's  
Letter to  
the Q. of  
Bohemia.

Ramsley  
treats with  
the Lord  
Reay.

Ann. 1630.

And is  
sent over to  
the States,  
and El-  
phinston  
to the K.  
of Sweden.

Farant-  
back's  
Treachery.

K. of Swe-  
den presses  
the Mar-  
quiss to ha-  
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And craves  
aid of the  
K. of Eng-  
land.

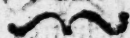
Reay accu-  
seth Ram-  
sey, and  
Ochiltree  
the Mar-  
quiss.

Friends raised as much money as the design required. And the Marquess sent Ramsey into Holland, to see what Assistance he might expect from the States, and to deal with some British Officers to engage them to take employment in his Army: He sent likewise one Elphinston, to the King of Sweden, to press that the Forces he was to have from thence might meet him at his Landing, or Money be sent to *Hamburg* or any other Bank, for the levying and paying the like Number: whereupon the King of Sweden committed the levying of 3000 Foot, and 1000 Horse, to Colonel *Farnsbach*, who pretended to go on with his Levies till the time was past, and then run over to the Emperor, whom he had before served and deserted. In the mean time the King of Sweden being now entered into Germany, and finding the Princes not so forward to join him as he expected, (they resolving to take their measures chiefly from the King of England) pressed the Marquiss to dispatch, and that the King of England would send over and maintain 10000 Men, which as well as the other the Marquiss should command as General; and he would oblige himself never to make Peace with the Emperor, till the *Palatinate* was restored; whereupon the King of England promised to send over an Ambassador to finish the Agreement.

In May the Lord Reay and Ramsey came from Holland, where the States would give no Assistance to the Marquiss till the King had formally engaged himself; but some Officers, as Sir Jacob Ashley, &c. Ramsey got to come over. There was then at Court the Lord Ochiltree, whose hatred to the Marquiss was Hereditary, he being the Son of Captain James Stuart, who in K. James's Minority, when the Hamiltons were in a mock Parliament attainted, carried the Title of Earl of Arran, and possessed their Fortunes; Ramsey being a Man of an intemperate Tongue, had talked loosely of the Court of England to the Lord Reay, who alledged to Ochiltree, that Ramsey had told him, the Marquiss his designs were not upon Germany, but that when his Army was gotten together he purposed to pretend to the Crown of Scotland. Reay likewise alledged, that Mr. Meldrum had communicated the same to Mr. Eleazar Borthwick, a Person of known

Integri-  
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Ramsey  
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## Abridg'd and Improv'd.



Integrity, who afterwards utterly denied that *Mel-*  
*drum* had ever communicated any such design to him.  
*Reay* also alledged the Testimony of *Lindsey* who was  
 his Lieutenant Colonel, but he was killed two or three  
 Months before *Reay* met with *Ochiltree* at *London*,  
 when *Tilly* took new *Brandenburg*, where *Reay's* Regi-  
 ment were almost all cut to pieces, while *Reay* had  
 absented himself, to come to *England*, with his Story  
 about the Marquis (which absence irrecoverably lost  
 him in the King of *Sweden's* Opinion). And yet *Reay*  
 charged nothing on the Marquis, but fixed all upon  
*Ramsay*; which caution was not observed by *Ochiltree*,  
 who made a representation of the Marquis his Interest  
 in *Scotland*, and his numerous Kindred and Allies  
 there; and with this account went to the Lord *Weston*  
 then Treasurer of *England*, and revealed to him this  
 pretended Treason, adding it was probable, the Mar-  
 quis (if admitted to wait in the King's Bedchamber)  
 might murder him. Lord *Weston* carried this Story  
 to the King, but his Majesty knew the Marquis too  
 well to give any Credit thereunto: nor would he  
 hearken to the Lord *Weston* and others, who desired  
 that the Marquis upon his return from *Scotland*,  
 (where he was raising his men) might not be admitted  
 to his Presence, at least not to lie in his Bedchamber;  
 but (when the Marquis came to Court, utterly ig-  
 norant of what had passed) welcomed him with an  
 Air of extraordinary Kindness, and drawing him apart  
 immediately told him all that had been whispered a-  
 gainst him. The Marquis was surprized at the rela-  
 tion; but this surprize was overcome with a greater,  
 when the King expressed his Confidence in him in such  
 obliging Terms, as he would not allow him time to  
 speak in his own justification. But when the Marquis  
 offered himself to restraint till he was cleared, instead  
 of that he commanded him to lie in his Bedchamber  
 that Night. Afterwards the Marquis not able to lie un-  
 der such terrible imputations, pressed that *Ochiltree*  
 might be put to prove what he had alledged; but *O-*  
*chiltree* offering only a Presumption which *Reay*  
 affirmed and *Ramsay* denied, they, both he and *Ram-*  
*sey*, were put under Bail, nothing appearing that touch-  
 ed the Marquis: so the Marquis was dispatched to

*Reay's* Re-  
 giment cut  
 in pieces  
 in his ab-  
 sence.

Lord *Wes-*  
*ton* carries  
 the Accu-  
 sation to  
 the King.  
 Who gives  
 it no good  
 hearing.

But opens  
 the matter  
 to the Mar-  
 quis.

And made  
 him lie in  
 the Bed-  
 chamber  
 the same  
 Night.



Ann. 1630.

*Ochiltree*  
condemned  
to perpetu-  
al Imprisonment.

*The Dyet*  
at Ratis-  
bon.

*The Catho-  
lick Prin-  
ces desire  
a Dyet.*

*The Prote-  
stants long  
for Peace.*

*Private  
Resolves  
from which  
the Empe-  
ror was not  
to recede.*

Germany; and the Lord Ochiltree having charged him with Treasons, and totally failing in the proof, he was sent into Scotland and tried there for this Calumny, and was condemned to perpetual Imprisonment in Blackness Castle, where he continued for twenty Years.

A Dyet was called by the Emperor at Ratisbon; all Parties were weary of the War, which had continued from the year 1618 (when the Blazing Star appeared) in a bloody and cruel manner, and the Emperor considered what violences and outrages had been committed by his Soldiers under Wallenstein, which had disgusted the People; and proposed to himself that if the Protestant Princes made unreasonable demands there, and he refused them, he should thereby oblige the Catholick Princes more firmly to him, than if he called no Dyet at all, and acted by his Imperial Authority. The Catholick Princes seemed desirous of this Dyet; and the more moderate sort of Catholicks were dissatisfied with the Duke of Bavaria's Covetousness in pressing the Emperor so hard to confer on him the Prince Palatine's Electorate and Patrimony; wishing the Emperor would only confiscate his Estate for Life, and not disinherite the innocent Children. Those of the Catholick League expressed themselves to the Diet, that they hoped for Restitution of the Church Lands and Goods which they pretended the Protestants held from them: The Protestant Princes and Party were thirsty of Peace, having undergone the greatest Hardships, and were desirous of an absolute Oblivion of all things past. But there were those who insinuated to the Emperor that some things were to be insisted on, from which it was not fit for him to recede; and among others, 1. Not to consent to a Settlement, until the Protestants had restored the Church Lands and Goods to the Catholicks. 2. Not to diminish his Army but in a small proportion, lest the Protestants should attempt to revenge themselves upon the Emperor. 3. Not to restore the Prince Elector Palatine to his Dignity and Patrimony. The Emperor represented to the Diet, That as he was not the cause of the War, so he would not be a hinderer of the Peace; imputing all the Mischief to the Palsgrave, Mansfield, Brunswick, and

and the King of *Denmark*; and proposing an Act to pass, to continue the *Palsgrave* a banished Man, without hopes of returning, and to have no Peace or Amity with him. He told them, the *French* were concluding a League with the King of *Sweden*, who if he refused Peace, was to be chastised by the Power of the *Roman Empire*: he proposed, that the Princes would consult about raising Money for maintaining a standing Army, restoring martial Discipline, and laying and levying Impositions. In answer hereunto the Princes Electors laid open the Grievances of the Empire, the Outrages of the War, and excessiveness of the Impositions. And as the Emperor laid the fault on the *Palsgrave*, they laid it on the new Duke of *Mechlenburg* (*Wallestein*) General of the Emperor's Army, who had a larger Commission than ever any Man had, and had levied Impositions at his Pleasure: The Elector of *Brandenburg* had been forced to pay in a few Years 20 Millions of *Florens*, and the Duke of *Pomerland* out of his Principality of *Stein* 10 Millions in one Year only. The like complaints from other Princes: They pressed the Emperor to cashier *Wallestein*, disband his Army, and make Peace with the *French* King, the Princes of *Italy*, and the King of *Sweden*. The complaints both of the Protestant and Catholick Princes were so many and great against *Wallestein*, as the Emperor had nothing to say for him, but consented his Command should be taken from him, and two Barons of the Empire were sent to him for his Commission; which contrary to expectation from a General so potent, and an Army so rude, he complied with, and lived at *Nimwegen* as a private Person.

6 Car.

The Empe-  
rors Propo-  
sal asto the  
Palsgrave.

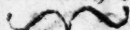
Grievances  
laid open.

The Empe-  
r moved  
to cashier  
Walle-  
stein.

Sir Robert *Anstruther* the *English* Ambassador coming to the Diet, accompanied by *Rusdorfe* Ambassador of the Prince Elector *Palatine* (for whom the Electors had obtained a safe Conduct from the Emperor) and Audience being granted him, he spake to this Effect: That his Master the King of *Great Britain* being affected with the Calamities of his Brother in Law the Prince Elector, his Wife and Children, made it his ardent request to his Imperial Majesty, that having regard to the Intercessions of his late Father, and other Kings and Princes, he would remit his displeasure,

Sir R. An-  
struther  
gets Audi-  
ence in the  
Diet.

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The Em-  
peror's An-  
swer.

Treaty be-  
tween the  
Emperor  
and Swe-  
den being  
broke off,  
the Catho-  
lic Princes  
prepare for  
War.

A Design to  
make the  
Emperor's  
Son K. of  
the Ro-  
mans.

Emperor  
proceeds  
with Seve-  
rity as to  
Church-  
lands, &c.  
Protestant  
Princes  
protest a-  
gainst it.

Emperor  
rejects their  
Protesta-  
tion.

and recal the Proscription against him. True it was his Brother was inexcusably guilty, unless the Rashness of Youth might plead for him; and others had been as culpable, whom the Emperor had receiv'd into Favour: and if he would extend the same Clemency to him, it would oblige his Master, and the Palgrave would entertain the Favour with a Heart full of Gratitude; and his Master was ready to enter into a Treaty for establishing a durable Peace. But it was answer'd, That the present Affairs of Germany were so important, they would admit of no foreign Debate; and yet upon opportunity and leisure, the King of Great Britain should receive all fit Satisfaction.

(Presently after this came News, That the Imperial Ambassador was return'd from the King of Sweden without any hopes of Peace, and that that King had made himself Master of Stetin, and put the Imperial Forces to flight. And now the Catholick Princes who were so desirous of Peace (feating a Conjunction of some Princes with the King of Sweden) were for prosecuting the War. It was observ'd, that during the Diet the Emperor made no other Proposition than what he did at the opening thereof, but underhand a Proposal was offer'd for chusing his Son Ferdinand King of the Romans, and so Heinapparent to the Empire: but the Protestant Electors answer'd, that it was contrary to the Laws of the Empire, this being none of the Causes declar'd for the calling of the Diet; nor could it be done any where but at Frankfort. This was resent'd by Caesar, and from that time he proceeded with Severity as to the Church-lands, and decreed at this Diet, That the Estates of all Gentlemen who had born Arms under Count Mansfield, Duke of Brunswick, and others, should be confiscated. The Protestant Electors and other Princes protested against this, and that those Gentlemen being within their Dominions, the Forfeitures belong'd to them; urging further the Example of other Princes, and among the rest Cosmo de Medicis Duke of Florence, who always left the Estate, after the Offender's death, to his Children or next Kindred. But the Emperor declar'd he would make examples of such as had born Arms against him; and for the Church-lands and

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and Goods, be restor'd them to the Catholicks, and the Princes who had held them near 80 years by virtue of the Agreement at Passau 1552. were decreed to quit them; and tho the Catholick Princes express their desire that that matter might be compos'd, yet the Jesuits importun'd him to the contrary, and by their means a rigid course was taken against the Protestant Churches and Schools, and the *Augustan* Confession forbidden, *November 3.* The Diet broke up, leaving matters worse than they found them; but the Catholick Princes prevail'd with the Emperor for the Diet to meet again at *Frankfort* in *August* following, for composing the difference about Church-lands.

The Diet  
broke up.  
Catholick  
Princes  
prevail for  
a Diet at  
Frankfort.

The Protestant Princes enter into a Consultation for their Safety, and by general agreement the Duke of *Saxony* writ a Letter to the Emperor, beseeching him, that seeing the business about Church-lands was to be debated in the Diet to be held at *Frankfort*, the Protestant Princes may have his Majesty's leave in the mean time to hold a Diet by themselves, that so they may be provided with an Answer to the Catholick Princes at their Meeting in the Diet at *Frankfort* concerning the said Church-lands. To which the Emperor agreed; and *Leipsick* was the place, and the time, the *8th* of *February*: where all the Protestant Princes meeting, some by their Deputies, but most in Person, the Elector of *Saxony* open'd the occasion of their assembling: 1. How the Church may be maintain'd in her antient Liberty. 2. How to keep their Obedience to the Emperor, and yet to preserve the Constitution of the Empire. 3. How to maintain Correspondence with the Catholick Princes. 4. What Answer to give in the Diet at *Frankfort*, concerning Religion and the Church-lands; the Elector protesting himself ready to adventure Life and Estate in this Cause.

And the  
Protestant  
Princes for  
a Diet at  
Leipsick.

After some Debate, they drew up their Grievances, and what might be the Remedies. 1. That the golden Bull and Constitution of the Empire might be observ'd, which hath been violated by the Emperor's Edict for Restitution of Church-lands, and by his Endeavours to root out the Protestant Religion. 2. The violent taking away Church-lands from several Princes and Cities. 3. Some were hinder'd in the Exercise of their

Grievances  
represented  
to the Em-  
peror.

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their Religion, and forty eight eminent Persons had their Estates confiscated. 4. Their Lordships have been enter'd upon by the Imperial Commissaries, and both Tenure and Religion chang'd. 5. Their Lands given to Soldiers, as if conquer'd. 6. Treble more Contributions have been rais'd against no Enemy, than ever were when the Turks were in Germany; all which is contrary to the Emperor's Oath, the Laws of the Empire, and the Privileges of the Princes: Wherefore they petition the Emperor to be reliev'd, otherwise they shall be forc'd to defend themselves; resolving to continue their Loyalty, but yet to prepare for a War in case of no redress. The Emperor hereby understanding their Resolution to levy Forces, put forth his Imperial Ban against the *Leipsick Legar*, forbidding any to give Relief, Passage, or Quarter to their Forces, commanding every man to destroy and kill the *Leipsick Legar*, offers Pardon to those that will come in, forbids their Subjects upon pain of death to contribute to their Levies, or march under their Ensigns.

Who puts  
forth his  
Imperial  
Ban against  
the *Leip-  
sick Legar*.

Bp Laud  
christens  
P. Charles.

Composition  
with such  
as had not  
taken  
Knighthood.

Proportions  
for Compo-  
sitions.

The Bishop of *London* christned Prince *Charles*: his Godfathers were the King of *France* and Prince Elector, represented by the Duke of *Lenox* and Marquis *Hamilton*; his Godmother the Queen Mother of *France*, represented by the Dutchess of *Richmond*.

The King standing in need of a further Supply, the business of Knighthood was retaken into Consideration, being grounded upon a Statute, call'd *Statutum de militibus*, which had long slept: and now the King issued out a Proclamation, That whereas he had formerly sent forth Writs for summoning all that had 40 l. Land or Rent by the year to appear at his Coronation, to receive the Order of Knighthood, he had now awarded a Commission to certain of his Privy Council to treat and compound with those that had made default, and multitudes were summon'd to appear at the Council-chamber. Likewise Commissions were awarded into the several Counties, for compounding with all except the Nobility, who were to compound before the Council. The Commissioners had this Instruction, not to take less than thrice and half as much as the Persons were rated to the Subsidy.

Several

Several refus'd to appear or compound, and some put in their Pleas in the Exchequer to be discharg'd. The Refusers were severely threaten'd, and the Sheriffs who had made partial or negligent Returns order'd to be prosecuted by Information; and the Privy Council sent their Summons to the Marquis of Winton, the Earls of Arundel, Essex, Huntingdon, Peterborough, and Kingston, the Vicounts Say and Seal and Montague, and Lord Brook, to appear before them, and compound. And the like Summons to several Gentlemen in the several Counties to appear at White-hall, to the same purpose; asserting the Legality thereof, and shew willing his Majesty was to obtain it by fair means rather than by any compulsory Course of Law, which he desires to avoid as his last Resort.

6 Car.  
Sheriffs  
neglecting  
to make  
Returns.  
Summons  
to some  
Noblemen,  
And to  
others to  
compound.

At this time there was a great Riot in Fleetstreet, where several were kill'd: whereupon the King set forth a Proclamation, That whereas on Friday the 10th of July, upon occasion of an Arrest made by the Sheriffs Officers, great Tumults were rais'd, barbarous Murders committed, and the Lord Mayor and Sheriffs, assisted with some of the Trained Bands, openly resisted, rather in a rebellious than riotous manner; his Majesty taking those Affronts to Justice, and to his publick Officers and Ministers, into his Consideration, and finding that few of the principal Actors can be yet taken or discover'd, commands all his Subjects, especially the Chirurgions of London and Westminster, who since that day have had any hurt or wounded men in their Cure, to discover to the Lord President of the Council, or one of the Secretaries of State, the Names of all such as they know, or by probable conjecture do suspect to have been Actors in those Tumults, and cause them to be detain'd or apprehended, without expecting further Warrant; and by name Captain Vaughan, Henry Stamford, and one Ward an Ensign. Afterwards Stamford and several others of the Rioters were try'd and convicted of Murder, and Stamford was executed.

A Riot in  
Fleetstreet.

For preventing the Scarcity of Corn and Victuals, a Proclamation issued for suppressing the Abuses of Ingrossers, Badgers, &c. according to a Book of Orders grounded upon several Statutes of Q. Elizabeth and K. James.

Proclama-  
tion against  
Ingrossers,  
Badgers,  
Mich. &c.



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Vassal com-  
mitted for  
not paying  
Customs,

And re-  
manded.

Selden's  
Case.

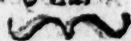
Acts of  
Bounty pro-  
jected by  
Bp Laud,  
mostly per-  
form'd in  
his Life.

*Mich. 6 Car.* An Information being brought in the Exchequer against *Samuel Vassal* Merchant, for refusing to pay the Imposition upon Currants, he demur'd to the Information; but the same matter having been before adjudg'd for the King in the case of one *Bates*, when *Sir Edward Coke* was Attorney General, the Court would not suffer the Demurrer to be argu'd, but order'd the King's possession should be continu'd, and *Vassal* should pay the Duty; which he refusing to do, they committed him: and upon a *Habeas Corpus* brought by him, it appearing that his Commitment was an Act of the Court in a Cause properly in their Cognizance, he was remanded to Prison.

*Mr. Selden*, *Sir Miles Hobert*, *Mr. Stroud*, and *Mr. Valentine* being Prisoners in the Kings-Bench, and the Sickness increasing in *Southwark*, the three last in the end of *Trinity Term 6 Car.* made suit to the Judges of the *Kings-Bench* to be deliver'd over to the *Gate-house* to avoid the Danger; which was granted: and the Marshal of the *Kings-Bench* had a Writ to deliver them; and the Keeper of the *Gate-house* a Writ to receive them. *Mr. Selden*, after the Judges were all gone out of Town, made suit to the Lord Treasurer to move the King that he might be remov'd likewise; which he did, and sent a Warrant to the Marshal to that purpose, and he was remov'd accordingly. But when the Judges came to Town in *Michaelmas Term*, they declar'd his Removal was illegal, for it ought to have been done by Writ; and sent Justice *Whitlock* to the Lord Treasurer to acquaint him by what a new and irregular way *Mr. Selden* had sought his Removal, without applying to them. The Lord Treasurer said, he had never mov'd it to the King, but that *Mr. Selden* assur'd him it was a legal way; and that *Mr. Selden* was at the Judges disposal: and Writs were sent that Term to remove all four Prisoners back again.

Several Acts of Bounty were projected to be done by *Dr. Laud* Bishop of *London*, whereof these following (being the greater number) were perform'd in his life-time; viz. 1. To build *St. John's College* in *Oxford*, wherein he was bred. 2. To overthrow the Feoffments made on pretence of buying Impropriations. 3. To procure all the Impropriations in *Ireland*,

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and, remaining in the Crown, to be given to that Church. 4. To set upon the Repair of St. Paul's. 5. To regulate and perfect the Statutes of Oxford University. 6. To settle the Statutes of the Cathedrals of the new Foundations. 7. To annex Commendams to the small Bishopricks, viz. Bristol, Peterborough, St. Asaph, Chester, and Oxford. 8. To set up a Greek Press for printing the Oxford Library Manuscripts. 9. To procure a large Charter for Oxford to confirm their antient Privileges, and obtain new for them, as Cambridge had done. 10. To settle an Hospital in Reading of 100 l. per annum. 11. And an Arabick Lecture in Oxford. 12. And the Impropriation of Cusden to the Bishop of Oxford. 13. To procure a new Charter for the College near Dublin, and a Body of new Statutes. 14. And a Charter for the Town of Reading.

Consideration being had of a Proclamation in King James's time, against trading with the Salvages of New England, whereby the English barter'd away to them Swords, Pikes, Muskets, Match, Powder, Shot, &c. with which they destroy'd those who sold them: His Majesty therefore by his Proclamation dated December 5. did again prohibit such kind of Trade with those Salvages, under great penalties.

*Proclamation against selling Arms to Salvages.*

December the 5th came forth in print by publick Authority Articles of Peace, Intercourse, and Commerce, dated November 5. between Charles King of Great Britain, and Philip IV. King of Spain; which were to this effect, viz. 1. There shall be a firm Amity, League, and Peace to endure for ever by Land and Sea, between the two Kings, their Heirs and Successors, Kingdoms, Dominions, and Subjects. 2. All Hostility to cease, all Injuries to be forgotten, and all Suits for the same extinguish'd, except Depredations within the narrow Seas after fifteen days, and between them and the Islands after three months, and beyond the Line after nine months; but for all other Depredations, Restitution shall be made. 3. Neither of the Kings, their Heirs, or Successors shall attempt any thing against the other, his Kingdoms, or Dominions, nor shall assist or consent to any War, Counsel, Attempts, or Treaties against the other. 4. Nor shall give

*Articles of Peace between England and Spain.*

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give or consent to be given by their Subjects any Aid or Supply of Soldiers, Victuals, Mony, Arms, or Munition to the others Enemies or Rebels. 5. They renounce all Leagues, Confederations, Capitulations, and Intelligence, to the prejudice of each other. 6. Shall take care their Subjects abstain from all Force and Wrong, they shall revoke all Commissions, Letters of Reprisal and Mart; and whoever shall do to the contrary, shall be criminally punish'd and compell'd also to make Restitution. 7. There shall be between the said Kings, their Subjects, Kingdoms, and Dominions, free Commerce, where there was free Commerce before the War between King *Philip II.* and Queen *Elizabeth*, as it was concluded in the Treaty of Peace Anno 1604. and according to the use of the antient Leagues and Treaties; so that the Subjects of each King may without any safe Conduct or Licence freely enter and sail in and to the Kingdoms, Dominions, Cities, Havens, &c. of the other with Carriages, Horses, Ships, &c. may buy and sell, procure Victuals, repair their Shipping and Carriages, and paying their Customs and Tolls, may depart freely. 8. Their Ships of War shall have access to each others Ports, whether they arrive by force of Tempest or otherwise; but if they come of their own accord, then not to exceed six or eight Ships without leave of the King, nor shall they stay longer than for Repairs of their Ships, or taking in Provisions: provided they do no hostile Act within the Ports, nor take in any Victuals, Arms, or Munition for the Enemies of that King; in which case, the Party attempting it shall be sharply punish'd: provided also the Subjects of the one King shall not be worse handled in the Dominions of the other, in their Sales, Contracts or Prizes, than the natural Subjects. 9. The King of *Great Britain* shall by Proclamation prohibit any of his Subjects to lade or carry over in his own or others Names, or lend his Ship, or suffer his Name to be us'd for the conveying of any Ships or Merchandizes out of *Holland* or *Zealand*, or any *Holland* or *Zealand* Merchant into *Spain*, or its Dominions: and for the better avoiding of Fraud, the Merchandizes to be carry'd from *England*, *Scotland*, and *Ireland* into the Dominions of the King of *Spain*, shall

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shall be register'd and seal'd with the Seal of the Town or City from whence they shall be laden, and then shall be reputed *English, Scottish, and Irish* Merchandizes; but in case of Fraud, proof shall be admitted without stay, notwithstanding of venting the Merchandizes, and all Merchandizes not register'd or seal'd shall be confiscated; and all *Hollanders* and *Zealanders* found in the said Ships, may be detain'd.

10. Such *English, Scottish, and Irish* Merchandizes to be transported into the Dominions of the King of *Spain*, shall pay only the usual Tolls and Customs.

11. No new Customs or Toll shall be increas'd for the Merchandizes which the *English, Scottish, or Irish* Merchants shall buy in the Dominions of *Spain*, and carry in their own or hired Ships (except the Ships of *Hollanders* and *Zealanders*) provided they carry the Goods to the Dominions of the King of *Great Britain*, or of the King of *Spain*. For the more assurance whereof, the Merchants shall bind themselves before the Magistrate of the place where they shall lade, to pay thirty in the Hundred, in case they carry the same elsewhere; and to obtain within twelve months a Certificate from the Magistrates of the places where they unlade the Goods, testifying they were unladen in the Dominions of one of the two Kings; upon exhibiting of which Certificate, the Bond is to be deliver'd up.

12. And the King of *Great Britain* shall prohibit, that none shall export any Merchandizes out of the Dominions of *Spain*, to be carry'd elsewhere, than into the Dominions of one of the said Kings, upon penalty of Confiscation thereof to the King of *Great Britain*: one half whereof, or of the value thereof, is to be to the Informer, the said thirty in the Hundred to be paid to the Ministers and Deputies of the King of *Spain* being first deducted. And it is declared, that this Prohibition of carrying Goods out of *Spain* to other places than the Kingdoms of *Britain*, and the Provinces obedient to the King of *Spain*, doth not comprehend those Kingdoms and Dominions which enjoy a free Trade with the Kingdom of *Spain*; but that the Subjects of *Great Britain* may lawfully transport the Goods of *Spain* thither.

13. If the said Magistrates of the Towns or Cities, who shall make Certi-

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 Certificates of the unlading of Goods, and testify the registering Merchandizes, commit any Fraud therein, they shall lose their Offices, and be further punished at the King's pleasure. 14. That which hath been before express'd concerning the free Commerce, and of the Subjects of either Kings entry into, and remaining in the Dominions and Ports of the other, victualling, carrying and recarrying their Merchandizes, repairing their Ships and Carriages, freely departing, &c. shall be understood, and is agreed on to extend to the Subjects of the King of Great Britain, and of the obedient Provinces of Flanders; so as the Subjects of the King of Great Britain use not the Shipping of the Hollander or of the United Provinces, and bring not into the obedient Provinces any of their Manufactures, nor any thing for which there was paid in Holland any Tribute, nor transport unto those Provinces any thing from the obedient Provinces till a Pacification be confirm'd, nor receive any of the Hollanders or United Provinces Goods into their Ships, nor trust any of their own Goods in the Ships of Hollanders or the United Provinces, nor by lending their Names colour the Goods of any Hollander, or other of the United Provinces; but that in all such cases the Goods shall be Prize. 15. All that hath been before said of Ships of War, shall extend to the said obedient Provinces. 16. The like concerning the giving Aid or Supply to each others Enemies. 17. Either King will use their Endeavours, that their Subjects have not the Passages stop't unto any of their Ports, Kingdoms and Dominions, but that they may come and go with their Ships, Merchandizes, and Carriages without impediment, the ordinary Customs and Tolls being paid. 18. The antient Treaties of Inter-course and Commerce between the Kingdoms of England, Scotland, and Ireland, and the Dominions of the Duke of Burgundy, and the Princes of the Low Countries, shall have their antient force, as they had before the War between Queen Elizabeth and Philip II. as it was agreed on in the Treaty of Peace 1604. And if Complaint be made on either side, that the Conventions are not observ'd, Deputies shall be chosen on either part, who (if need be) calling Merchants unto them,

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them, may treat and compose the matter. 19. The King of Spain shall take care and provide, that the Subjects of the King of Great Britain, remaining in the Dominions of Spain for Commerce, shall not be molested in using their Trade and Commerce for the cause of Conscience, they giving no Scandal to others. 20. If prohibited Goods be carry'd out of the Dominions of either King by the Subjects of the other, the Offender only shall be punish'd, and the prohibited Goods only shall be confiscated. 21. The Goods of the Subjects dying within the Dominions of either, shall be conserv'd for the right Heir or Successor; the Right of a third Person always say'd. 22. The Grants and Privileges given by the Kings to Merchants of either of the Kingdoms (which ceas'd through the War) shall be reviv'd. 23. If any Breach happen between the two Kings, the Merchants shall have six months time to transport their Persons and Merchandizes. 24. No Embargo shall be laid upon any Ships for the Service of that King in whose Port the same is, without the Consent of that King whose Subject the Owner is. 25. If any thing be done contrary to this Peace, yet the Peace shall continue in force, and only the Offender be punish'd. 26. Captives taken in War, tho' condemn'd to the Gallies, shall be releas'd; the Diet of such as are not in the Gallies, and the Ransoms before agreed on, being by them paid. 27. All civil Actions in force when the last War began, may be yet pursu'd, notwithstanding any Lapse of time; those only excepted, which are already come to the Exchequer or Prince's Treasury. 28. If any Controversy be mov'd in the Dominions of either King, by a Person not subject to the same King, for any Depredations, the Cause shall be remitted to the Judg under that King, against whose Subject the Suit is commenc'd. 29. If the Hollanders and other confederate States propose Conditions of Pacification with the King of Spain and his Successor, through the means of the King of Great Britain, the King of Spain will willingly hearken to what shall be just and reasonable. 30. In this Treaty of Peace shall be comprehended, on the King of Great Britain's part, the Emperor, the French King, the Kings of Denmark, Poland, and Sweden, with several other



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The Peace  
proclaim'd,  
and sworn  
to.

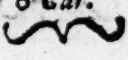
This Peace was proclaim'd in London, &c. with great Solemnity, and two days after sworn unto in White-hall Chapel, where the Spanish Ambassador, Don Carlo Coloma, was present. Bishop Lind with three other Bishops, went up to the Altar with the Latin Bible on which the King laid his hand; Secretary Cooke read the Oath, and the King kiss'd the Book, sign'd the Articles, and deliver'd them to the Ambassador. The Substance of the Proclamation was, That the King being mov'd therein to upon weighty Considerations, and by the Intervention of some of his Friends, had laid aside all Hostility with the King of Spain; That a Peace was establish'd between them, and the Trade and Commerce, as it stood by the Treaty made by his late Father, restor'd and confirm'd. But when the War first begun with Spain, there was great hopes, that King would be compell'd to have procur'd the Restitution of the Palatinate; now, after an expensive War, all that could be obtain'd was, That he would use his utmost Interest with the Emperor for the Restitution of the Prince Elector, but in the Articles not a word of it.

January 15. His Majesty's Orders and Directions came forth in print, together with his Commission to the Lords and others of the Privy Council, for putting in execution the Laws for Relief of the Poor, Punishment of Rogues, and Imployment of Gifts to charitable Uses, which Commission was to this effect.

A Commis-  
sion for Re-  
lief of the  
Poor, &c.

viz. Whereas Divers Laws have, during the Reign of Q. Elizabeth and his late Father, and since his Majesty's coming to the Crown, been made for the Relief of the Poor, the putting out Youth Apprentices

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to Trades, imploying idle Persons, punishing Rogues and Vagabonds, and setting them to work, and suppressing Drunkenness and Idleness: but the defect of the execution of these Laws, proceeds chiefly from the remissness of Justices of Peace and Magistrates, there being small or no Penalties inflicted on them by Law; and if any be, yet partly by the smallness thereof, and partly by their power, and the awe they hold others in, there are few Complaints against them. And the Judges of Assize stay so short a time in every County, that they cannot inform themselves thereof, or take course for redressing the same: So that those Laws are now little regarded, tho at the first making of them, being then duly executed, and in some places where they continue so to be, there appeareth great Reformation. And where the Laws concerning charitable uses have been well executed, the Poor have been better reliev'd than now they are. His Majesty finding there is no better way to have the said Laws and Statutes put in full execution, than by committing the oversight thereof to Persons of principal Place and Dignity near his Person, who may inform him how they are executed, and may give Directions for the execution thereof, doth authorize and appoint the said Commissioners, or any four or more of them, upon Oath, or without Oath, to enquire from time to time how the Laws and Statutes concerning the relief of the Poor, binding out Apprentices, setting to work poor Children and other poor People, compelling idle Persons to work, the Maintenance, Government, and Well-ordering of Houses of Correction and other like Places; the raising, collecting and imployment of such Sums, as by the Statute of 43 Eliz. are appointed for relief of Soldiers and Mariners; the punishment or setting on work of Rogues and Vagabonds; and all Laws against Drunkenness and Idleness, reforming of Abuses in Inns and Alehouses, the abridging the number of Alehouses, the keeping of Watches and Wards, and other publick Services, are put in practice and executed: empowering the said Commissioners, or any six or more of them, to give such Orders and Directions, as the said Laws and Statutes

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may be executed, and the Penalties thereof levied and rightly employ'd: And whereas Bounties and charitable Gifts, thro Frauds, Breaches of Trust and Negligence, have not been employ'd according to the intent of the Givers, his Majesty commands that the Statutes of 39 and 43 *Eliz.* and all other Laws and Statutes concerning Hospitals, *Maison le Dieu*, and other Donations and publick Gifts for the Poor or publick Works, be put in execution; and the Deeds of Foundations, Charters, Wills, and Dispositions of Lands, Goods, Annuities or Rents, given to any such Houses, or to any charitable Use or publick Work, be diligently sought out and discover'd. And the said Commissioners, or six or more of them, may call to their assistance the Justices of Assize, and give directions to them for their several Circuits; and to Justices, Mayors, and other Head Officers, Clerks of Assize and Sessions, &c. for the better execution of the said Laws and Statutes, who are all commanded to observe the same. And the said Commissioners, or any four or more, are from time to time to certify what Justices of Peace, Mayors, Head Officers, &c. are diligent in the execution of the Premises, that they may receive due encouragement; and the Names of such as are negligent, that they may be displac'd out of the Commission of the Peace, as unworthy Persons and deserving the Censure of the Star-chamber. And they, or any six or more, are authoriz'd to do any other lawful and necessary Acts for the better execution of the Premises, as they shall think fit. And because those of the Commissioners that are Attendants upon his Majesty's Person, or otherwise employ'd in his Service, cannot at all times be in person to execute this Commission; they, or six or more, are empower'd under their Hands and Seals, to appoint their Deputies in every or any County, City, Borough or Town Corporate; who, or any two, three, or more of them, may do every thing the Commissioners may do in the Premises, they pursuing such directions from time to time as the Commissioners, or any six of them, shall give them in writing: And a Transcript of this Commission shall be sent the Deputies in every County, City, or Town Corporate, under the hands of the

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Commissioners, or any six of them at least. And the Chancellor or Lord Keeper is commanded and authorized, to cause several Commissions to be made forth under the Great Seal, to such as they, or six or more, shall signify unto him under their hands, of the same Tenor in every material thing with this Commission, but with a Clause that they certify their Proceedings to the Commissioners above.

*Orders.*

There were likewise certain Orders and Directions to which this Commission was annex'd; the Orders were these: 1. The Justices of Peace of every Shire shall divide themselves, and allot which of them and what Hundreds shall attend monthly at certain Places of the Shire; and there the High Constables, Petty Constables, Churchwardens and Overseers of the Poor of those Hundreds shall attend, and Information shall be taken how every of these Officers have done, their Duties, in execution of the Laws mention'd in the Commission annex'd, and who have offended against those Laws. 2. The Justices shall punish the Officers who have neglected to make their Presentments. 3. The Penalties of Offences presented at one Meeting, shall be levied and brought to the Justices at their next Meeting. 4. And apply'd as the Statutes appoint. 5. The Justices may reward the Informer or Prosecutor out of part of the Money levied (This, tho not prescrib'd by the Statute, yet is not against that Statute that gives the penalty to the Poor, for no part thereof would come to the Poor, but by this means). 6. The Justices of Peace, once every three Months, shall certify in writing to the High Sheriff whom they have punish'd, what they have levied, and how they have employ'd it. 7. The High Sheriff shall within 4 days after send it to the Justices of Assize for that County, or one of them; and such Justices or Justice, at the beginning of every Term next after, shall certify to the Lords Commissioners: And if the Justices of Peace fail to give this account, the Sheriff shall certify the default to the Lords Commissioners. 8. The Justices of Assize are every Circuit to inquire and report to the King, what Justices of Peace are diligent, and who negligent.

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Directions.

The Directions were these: 1. That Lords of Mannors and Towns take care the Parishioners be reliev'd at home, and not beg up and down in their Parishes. 2. That Stewards in their Leets twice every year, enquire of Bakers and Brewers breaking of Assizes, Forefallers, Regrators, selling with Under-Weights, or at excessive Prizes, things unwholesom or deceitful; Breakers of Houses, Common Thieves and their Receivers; Haunters of Taverns or Alehouses; those well clad and faring well, and none knows whereof they live; Night-walkers, Builders of Cottages, taking Inmates, Offences of Victuallers, Artificers, Workmen and Labourers. 3. Poor Children to be bound Apprentices, and Mony rais'd for that purpose; and the Refusers to take them, to be bound over to the Sessions. 4. The Statute of Labourers not to be avoided by private Contracts. 5. The weekly Taxations for the Poor to be rais'd to higher rates, the neighbouring Parishes to help the weaker Parishes, and Stock or Mony given for the Poor, to be no occasion of lessening the Parish-Rates. 6. Petty Constables to be chosen of the abler sort. 7. Watches to be in the night, and warding in the day. 8. The remissness of Petty Constables being a great Cause of the swarming of Rogues and Beggars, the High Constables shall present to the Justices of Peace the defaults of Petty Constables. 9. Persons that live out of Service idly, and will not work, or spend all they have at the Alehouse, to be brought by the Constables to the Justices at their Meetings. 10. Houses of Correction to be near the Common Prisons, and the Goaler to be made Governor of them, that so he may employ work Prisoners committed for small Causes. 11. Not to harbour Rogues in their Barns and Outhouses, and wandering Persons with Women and Children; to give account to the Constable or Justice of Peace where they were married, and where their Children were christened. 12. The Justices of Peace at their monthly Meetings to cause the Surveyors to present the defects of the Highways, and to present such defects upon their own view at the Quarter Sessions.

There being a great fear of a Dearth, the Privy Council by Letter to the Lord Mayor and Aldermen

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of London, requir'd an Answer to these Particulars :  
 1. What number of Mouths in the City and Liberty ?  
 2. What Corn will suffice to feed them by the Month ?  
 3. What Places to lay the Corn in ? 4. When they  
 intend to make their Provision ? 5. What Course to  
 have the Provision well conserv'd ? 6. What Mony to  
 be provided for that purpose, and who the Provi-  
 ders ?

6 Car.  
 Questions  
 to the Lord  
 Mayor, &c.

St. Katherine Creed-Church being lately repair'd, St. Kathe-  
 was suspended from Service, Sermons and Sacraments, rine Creed-  
 all new consecrated. Dr. Laud Bishop of London, on church  
 Sunday Jan. 16. coming thither to consecrate it ; at his consecrated  
 approach to the West-door of the Church, some that by Bishop  
 were prepar'd for it, cry'd out, *Open, Open, ye ever- Laud.*  
 lasting Doors, that the King of Glory may enter in ; and  
 presently the Doors were open'd : and the Bishop com-  
 ing in, and falling upon his Knees, with his Eyes lifted  
 up, and his Arms spread abroad, uttered these Words :  
*This Place is Holy, the Ground is Holy ; in the Name of*  
*the Father, Son, and Holy Ghost, I pronounce it Holy.*  
 Then he took up some of the Dust, and threw it up  
 into the Air several times, and approaching the Com-  
 munion-Table, bow'd oftentimes towards it ; then  
 went round the Church, saying the 100 and the 19<sup>th</sup>  
 Psalms ; then a Prayer, concluding, We consecrate this  
 Church, and separate it unto thee as Holy Ground,  
 not to be profan'd any more to common use. Then  
 being near the Communion-Table, he curs'd those that *His Curses.*  
 should profane that Holy Place, by Musters, pro-  
 vane Law-courts or Burdens ; and at the end of every  
 curse, bowing to the East, he said, *Let all the People*  
*say, Amen.* Then he pronounc'd a number of Blessings *His Blessings.*  
 upon the Builders of the Church, and those who had  
 should give Chalice, Plate, Ornaments or Uten-  
 sels ; and at the end of every Blessing, bowing to-  
 wards the East, he said, *Let all the People say, Amen.*  
 Then follow'd the Sermon ; which ended, the Bishop as  
 he approach'd the Communion-Table made many lowly  
 bowings ; then coming to the side where the Bread and *His Bow-*  
 Wine were cover'd, he bow'd seven times ; and after *ings to-*  
 the reading of several Prayers, lifted up the Corner *wards the*  
 the Napkin where the Bread was, laid it down a *Bread and*  
 in, flew back a step or two, bow'd three times to *Wine.*



Ann. 1630. wards it; then drew near again, open'd the Napkin, and bow'd as before. Then he laid his hand on the Cup, which was full of Wine, with a Cover on it, went back, and bow'd thrice towards it, lifted up the Cover, look'd into it, and letting it fall again, retir'd back, and bow'd as before. Then he receiv'd the Sacrament, gave it to some principal Men, and concluded all with a great many Prayers. This matter was some years after objected against this Bishop in Parliament, as an evidence of his Inclination to Popery, and prov'd before the House of Lords. The Bishop justify'd the Consecration of Churches by the practice of *Moses*, *Solomon*, *Hezekiah*, &c. and the Tabernacle and Vessels were consecrated by *Moses*. He argu'd out of *Eusebius* the antiquity of consecrating Christian Churches: he said he came thither in a grave and seemingly not pompous manner; that *Moses* and *Aaron* fell on their Knees at the door of the Tabernacle, *Hezekiah* and the People bow'd and worship'd, and *O let us worship and fall down*, &c. is the Introitus in our and other Liturgies. He pronounc'd the Ground Holy, there being a relative, tho not inherent Holiness in Churches. He denied he threw up Dust into the Air, nor could it be in imitation of the Roman Pontifical, for that prescribes Ashes not Dust; that he had his form of Consecration from Bishop *Andrews*, and it may be that he had his form of Prayer from the Mass-book and Pontifical, there being many good Prayers in them. To this, it was reply'd by a Member of the House of Commons: 1. *Moses* had an express Command from God to consecrate the Tabernacle and Vessels, by anointing them with Oil, they being Types of Christ to come; but we have no such Command for Churches, Altars, &c. nor can they be Types. 2. The Consecration was by *Moses* the temporal Magistrate (not *Aaron*) with only the Ceremony of Oil; this no warrant for Bishops with other Ceremonies. 3. The Consecration was Ceremonial, abolish'd by Christ's Death. 4. *Solomon* did not consecrate the Temple and Vessels with Oil, and made his Prayer in the Court, not the Temple. 5. The most Holy Place, the Holy City, and the Holy Ground whereon *Moses* stood, are still'd so, tho never consecrated. 6. Our own Home

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ies say, the Church is Holy, in respect of the Peoples exercising themselves in holy things, nor for its Consecration by a Bishop. 7. Preaching, Prayer, and the Sacraments are sufficient to make the Church Holy, without other Consecration. 8. Sanctification is but sequestering a thing from a common to a religious use, which may be done without a Bishop's Exorcism or Conjunction. 9. For his throwing up Dust, two Witnesses depos'd it; and Dust and Ashes are usually coupl'd together. It appears by the Pontifical found in his Study, that the Form he us'd is the same with that, and if Bishop Andrews imitated the Pontifical, and the Bishop Andrews, the Charge is much alike.

Sir Miles Hobart and William Stroud Esq; being imprison'd in the King's Bench for Misdemeanors in the House of Commons, were, Trin. 6 Car. by Order of the Court, remov'd to the Gatehouse. The Keeper receiv'd Stroud into his House lately built, and adjoining to the Gatehouse, but no part thereof, and suffer'd him that night to reside with his Keeper at his Chamber in Grays-Inn, and Sir Miles Hobart with his Keeper to reside at his Chamber in Fleetstreet. But the Sickness increasing, they with their Underkeepers (and with the licence of the Keeper) retir'd to their Houses in the Country, and before Michaelmas Term return'd to the Keeper's new Building, but were never in the old Prison except once when they retir'd to the Closestool, which was near the Parlor, and part of the old Prison. And two several Informations being exhibited against them for Escapes, the Court resolv'd, that their voluntary retirement to the Closestool made them Prisoners; that if a Prisoner departs from Prison with his Keeper's Licence, both are punishable; and that every Place where a Man is restrain'd of his Liberty is a Prison; as if one takes Sanctuary and departs thence, he breaks Prison.

The King issued out his Proclamation, declaring his intent to confirm to his Subjects of Ireland their defective Titles, by virtue of a Commission under the Great Seal of England.

In this Year 1630 was the second of the three Plagues which this Nation felt in the Reigns of King Charles the First, and King Charles the Second: In the Year

6 Car.

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Sir Miles  
Hobart  
and Mr.  
Stroud,  
their Case  
about an  
Escape.

Ireland's  
defective  
Titles.

Three great  
Plagues.

*Ann.* 1630. 1625, there died in *London* and the *Liberties* 54082 Persons, whereof of the *Plague* 35428. In this Year there died 10554, whereof of the *Plague* 1317. In 1665 there died there 79000 Persons, whereof of the *Plague* 65890.

*Other Star-chamber Cases, Anno 1630.*

*At. Reg.*  
*vers. Nor-*  
*ton & al.*  
*Scandal of*  
*the Lord*  
*Keeper Co-*  
*ventry.*

*Mich. 6 Car.* The Defendants *Bonham Norton* and *Smith* endeavour'd to fasten a Bribe upon the Lord Keeper *Coventry*; but the Cause not succeeding as *Norton* expected, he rais'd several rumors of his Lordship's unjust Proceedings, and put them in writing, pretending he had receiv'd Informations from the Defendants *Lee* and *May* of 600*l.* and other great sums given to the Lord Keeper, for his favour to the Defendants in *Chancery*; and *Lee* and *May* publish'd Notes or Memorials about it, and Cases were drawn out of them, calling his Lordship Sir *J. K.* and unjust Judge, and his Decree an unjust Judgment, and carried those Notes to Counsel, and thereby fram'd a Petition to the King against the Lord Keeper, taxing him with Injustice and Corruption, and presented it to the King. The Defendant *John Norton* contriv'd the Cases, and he and the Defendants *Diggs*, *Winston*, *Harper*, *Hingate* and *Smith*, publish'd the Scandals. *Bonham Norton* was fin'd 3000*l.* to acknowledg his Offence at the *Chancery-Bar*, with a Paper on his Head declaring it, and to acknowledg the Decree was just; to ask his Majesty and the Lord Keeper forgiveness, and to make the like acknowledgment in this Court and at *Salop Assizes*. *Lee* and *May* fin'd 1000*l.* a piece, to ride from the *Fleet* to *Westminster* with their faces to the Horse-tail, to acknowledg their Offences at the *Chancery-Bar* and in this Court, with the like Papers on their Heads; to be set on the Pillory with one ear nail'd: Another day to ride into *Cheapside* as before, set in the Pillory, and the other ear nail'd, and to be imprison'd for their Lives. *John Norton*, *Hingate* and *Smith* fin'd 1000*l.* a-piece; and *Diggs*, *Winston* and *Harper* 100*l.* a-piece, and all to ask forgiveness at this Bar. Sergeant *Ashley* reprov'd, and not to practise before the Lord Keeper till he had privately submitted. The Defendants



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dants committed, and to pay the Lord Keeper 3000 l. Damages.

The Defendant having died black Silks corruptly, whereby they were rotten, but much heavier; the Wardens of the Company, with a Constable, by virtue of their Charter and a Warrant from the Council, coming to search, found some, and endeavour'd to seize them; but the Defendant took up a Halbert, assaulted them, forc'd the Silk from them, and drove them out of doors. He was committed, fin'd 100 l. and to acknowledg his Offence to the Wardens.

The Defendant flourish'd his Truncheon in the presence of divers Gentlemen of good Rank, and said of the Plaintiff, being a Justice of Peace, That the King had done ill to make the Plaintiff a Justice of Peace, and him none, for he was more worthy than the Plaintiff, and that the Plaintiff was a base Knight and a Stinkard. He was committed, fin'd 100 l. and to submit to the Plaintiff at the Assizes.

The Defendants, by conspiracy, prefer'd two several Indictments against the Plaintiff for stealing divers petty things, which they themselves had long before left with him in keeping, on both which the Jury return'd *Ignoramus*; and then they prefer'd another Indictment against him at the Quarter Sessions in his absence, for stealing a Ring, a silver Spoon, and twelve Pence in Money (which in truth were long before given him by the Defendant *Jane Hemingway*) yet upon her Evidence the Jury return'd *Billa vera*, upon which he was tried for his Life, and acquitted. The Defendants were all committed, one fin'd 100 l. another one hundred Marks, and their Wives 50 l. a-piece, all bound to their good Behaviour, disabled ever to be Witnesses, and to pay the Plaintiff 100 l. Damages.

The Defendant being displeas'd with several Reports made by Sir *Euble Thelwall*, a Master of Chancery, deliver'd a Petition to the Master of the Rolls, containing, that Sir *Euble* had made a false Report in his Cause, and was not an indifferent Person; and in a Schedule of Exceptions annex'd, affirm'd he had made two false Reports against him, and challeng'd property in part of the Lands in question, desiring the

6 Car.

At. Reg.  
versus  
Sampson.  
Corrupt dy-  
ing of Silk.

Resistance  
and the  
Councils  
Warrants.

South Kt.  
vers. Ward  
Cler.  
Base Kt.  
and Stin-  
kard of a  
Justice of  
Peace.

Bacon ver.  
Bolton &  
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Conspiracy  
to indict  
the Plain-  
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lony.

Att. Reg.  
ver. Jones.  
Slander of  
a Master  
of Chancery.

Ann. 1630. the Reference to be transfer'd, and deliver'd a Writing to Sir *Euble* to the same purpose. He was committed, fin'd 200*l.* and to acknowledg his Offence at the Chancery Bar, and at the great Sessions for *Denbigh*; but no Damage to Sir *Euble*, he dying before the Sentence.

At. Re. per rel. Sir E. Powel Bar. verf. Sir P. Vanlore Bar. & al. The Defendant Sir *Peter Vanlore* by practice with *Loue* and his Wife, two of the Servants of Dame *Jacoba Vanlore* his Mother, got into his hands a Bond of 16000 *l.* to his deceas'd Father, and belonging to his Mother as Executrix, and offer'd to deliver it up to one of the Obligors, if he would assist him to overthrow the Will of his Father. That one of the Defendants being arrested at the Lady *Vanlore's* Suit,

Rescue.

four other of the Defendants being arm'd, rescu'd him, beat the Bailiff, and assaulted one *Bilmore* (who shew'd the Party arrested to the Bailiffs) and broke his Arm. And Sir *Peter Vanlore* endeavouring to keep his Mother from the possession of two Parsonages, procur'd the other Defendants arm'd with Weapons riotously to take the Corn, which they did several times, and threatned, that if any came to resist them, they should be soundly beaten. The Defendants were all committed, Sir *Peter Vanlore* fin'd 1000 Marks for his practice to procure the Bond, and 1000 Marks for procuring and maintaining the Riots, and to pay the Lady *Vanlore* 11000 *l.* Damage, unless by the first day of next Term he deliver'd her up the Bond uncancell'd. *Loue* for his Infidelity to his Lady fin'd 200 *l.* the Rescuers and Rescued, 100 Marks a-piece, the six Rioters 50 *l.* a-piece, and if the Rioters not able, Sir *Peter Vanlore* to pay their Fines; and Sir *Peter* to ask Sir *Edward Powel* forgiveness, for saying he was a Fellow would say or swear any thing; which words were prov'd, but not charg'd by the Information.

Submission for Words not complain'd of.

Att. Regis. ore ten. verf. Morgan. Slander of two Justices of Peace.

Hill. 6 Car. The Defendant Being a Popish Recusant, and refusing in open Court to take the Oath of Allegiance, whereupon he was attainted in a *Premunire*, and committed to Goal; he wrote a libellous Letter to Sir *John Bridgeman* and Sir *Marmaduke Lloyd* Justices of Peace for the Counties of *Chester* and *Flint*, before whom he was first convented, taxing them with Injustice; and fram'd another writing intitl'd, The

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State of Flintshire, wherein he alledg'd his Majesty to be depos'd, the Authority of his Privy Council abrogated, the Bishop of *Calcedon* to be made King, the Inhabitants of *Flintshire* his Slaves, and *Sir John* and *Sir Marmaduke* his Justices: and another, terming them to be Traitors, and Favourers of the Bishop of *Calcedon*. He was fin'd 1000 Marks, to be set in the Pillory at *Westminster* and *Flintshire* Assizes, with one Ear nail'd at each place, and a Paper on his Head declaring his Offence, and imprison'd during Life.

The Defendant *Tires* being Clerk to the Under-sheriff of *Lincolnshire*, hearing a *Fieri Facias* was sud forth at the Suit of the Lady *Dimock* against the Plaintiff, upon a Judgment of 200*l.* directed to the said Sheriff, did before any Writ deliver'd, and against the will of the Lady or her Solicitor, make a Warrant directed to himself, and the Defendant *Winter*; and he and *Winter*, with others armed, brake open the Plaintiff's Stable-door, and took thence Horses and other Cattel. The Defendants were committed, fin'd 40*l.* a-piece, and 50*l.* damage to the Plaintiff.

The Defendants, contrary to his Majesty's Proclamation, counterfeited great Quantities of Farthings, and vented them at 24*l.* 25*l.* and 26*l.* in Farthings for 20*l.* in current Money. They were committed, bound to their good behaviour during Life; *Taylor* fin'd 100*l.* *Stephenson* 500*l.* and both set in the Pillory at *Westminster*, *Cheapside*, *Tork*, *Rippon*, *Bishops* *Awklands*, *Newcastle*, and *Durham*, with Papers on their Heads.

The Defendant *Dorothy Blackburn* intercepted two of the Plaintiff's Letters, and procur'd the other Defendants to insert therein treasonable words, and scandalous matter against the Lord *Gray*, and drop'd one of them in a Market Town; on which the Lord *Gray* committed the Plaintiff, and sent him to the Council, who committed him first to the Gate-house, and then to the Tower to be rack'd. *Dorothy Blackburn* was committed during the King's pleasure, bound to her good Behaviour during life, disabled to be a Witness, whipt in the Palace-yard at *Westminster*, standing on a high place with a Paper on her head; branded in the Face with the Letters *F.* and *A.* for False Accuser, and

Binks vers.  
Tires & al.

Riotous  
taking a  
way of  
Cattel.

Att. Regis  
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Monk vers.  
Blackburn  
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Conspiracy  
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*Ann. 1631.* and to stand in like sort, and be whipt at *Leicester*. *Skeller*, who intercepted the Letters, committed, fin'd 100 l. and bound to his good Behaviour. *Betson*, the Counterfeiter of the Letters, committed, fin'd 500 Marks, bound to his good Behaviour, disabled to be a Witness, and to stand in the Pillory with a Paper on his Head, and all of them to pay the Plaintiff 500 l. Damage.

*Ann. 1631.*

Commissions to M. Hamilton's Officers to raise Men.

Sir Tho. Wentworth reconcil'd to the Court, and advanced.

Mr. Bellasis committed for not doing him Reverence.

Commissions were granted by his Majesty for the raising the 6000 men the Marquis of *Hamilton* was to carry over to the King of *Sweden*, and in each Commission the Counties were inserted, wherein each Company was to be rais'd.

Sir *Thomas Wentworth*, one of the great Patriots in the last Parliament, having reconcil'd himself to the King, and being made a Peer, a Privy Counsellor, and Lord President of the *North*, where he exercis'd the same arbitrary Power he had before so much oppos'd, and carry'd himself with insufferable Haughtiness and Pride; *Henry Bellasis* Son and Heir of the Lord *Faulconberg* was on the 6th of *April* call'd before the Council-Board, for that he came into the Room where the said Lord President was, without shewing him any particular Reverence; and when his Lordship went out of the Room with his Hat off, the Macebearer before him, and the rest of the Company uncover'd, Mr. *Bellasis* stood with his Hat on his Head, looking full on his Lordship, without stirring his Hat. Mr. *Bellasis* answer'd, he came into the Room with an intent to perform due Reverence to his Lordship; and when my Lord went out of the Room, he was pass'd before he was aware, he being talking with the Lord *Fairfax*, and his Face turn'd the other way, otherwise he would have put off his Hat, and shew'd Reverence to his Lordship. The Council order'd him to underwrite this, with an Acknowledgment that he was sorry he gave such occasion of Offence to the Lord *Wentworth*. But Mr. *Bellasis* refusing, was committed to the Gate-house, and after a months Imprisonment, being call'd again before the Council, he subscrib'd the Acknowledgment, but said he hop'd it should be understood to relate to the Place, not the Person of the Lord President, and was set at liberty.

Is set at liberty.

In

*Feoffees for Improvements dissolved.*

In 1627. Feoffees were intrusted to purchase in the Improvements with their and other mens Mony, and with the Profits to maintain a constant preaching Ministry where it was wanting. They consisted of four Divines, four Lawyers, and four Citizens. There are in *England* 9284 Parishes, but 3845 of them either appropriated to the Clergy, or improprated (as Lay Fees) to private Persons; which latter these Feoffees endeavour'd to redeem, and might have done it in fifty years. But it being consider'd, that the Feoffees would have in time been the prime Patrons, by the greatness of the Benefices, which would multiply their Dependencies, and increase Nonconformity, *Now* Attorney General exhibited a Bill in the Exchequer against them, alledging both breach of Trust, in setting up a Morning-Lecture at *St. Antholines London*, and not in other places far distant, where Preaching was wanting, and for preferring Nonconformists. And their Proceedings were there declar'd dangerous to Church and State and illegal, their Society dissolv'd, and the Mony confiscated to the King.

The King granted a Comission dated *April 10, 1631.* Commission to several Bishops, all his Privy Council and prime Ministers, chief Justices, Lord Mayor, divers Aldermen, Dean of *St. Paul's*, and others, declaring his purpose for the repairing and upholding the Cathedral Church of *St. Paul's London*, being the goodliest Monument and most eminent Church in his Dominions, and a principal Ornament of the Royal City, which would require a stock of Mony and Materials to begin with, and a constant yearly Supply to finish it; That the Monys to be rais'd shall be paid into the Chamber of *London*, the Bishop of *London* to keep a Register of the Subscriptions of the Contributors to this Work: The Judges of the Prerogative Courts, Vicars General, and all Officials to take care that out of the Monys as shall fall into their power upon the decease of Persons intestate for pious Uses, some proportion be assign'd for this Work: The Commissioners to take a Survey of the Decays of that Church, calculate the Charge, endeavour to discover all Gifts given for the repairing and adorning thereof; and to advise

*Commission for repairing St. Paul's.*

*A Register appointed for the Subscription of Benefactors.*

Ann. 1631.

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St. Paul's  
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demolish'd.

vise and agree upon the Form of Letters Patents for a general Collection for bringing in the Monys and Materials; and for suppressing and preventing all Annoyances and Encroachments; and a Certificate of the Proceedings herein to be made into the Court of Chancery. In pursuance of this Commission, Briefs for Contributions issu'd under the Great Seal; and the Commissioners resolv'd, That the Monys given and Donors Names should be certified yearly; a Clerk, Paymaster, and Purveyor chosen; the Work to begin when 10000*l.* in Bank, and then two or three Chests to be set in the Church, for receiving the Benevolence of well-dispos'd Persons. And wherever there was found slackness in Persons of Wealth or Authority, as to raising or collecting Mony, they were to be quickned by Letters monitory from the Council; and such Letters monitory were sent to severall, and particularly to Sir Francis Knowls and Vachell, Justices of Peace for Berks, wherein they were check'd for not publishing this Commission, and giving a good Example to others by their own Liberalities. And the Council being inform'd of a long Abuse in St. Paul's Church, which might give a great Impediment to mens liberal Offerings, and at which Offence had been taken, as well by Foreigners, as those of our own Nation; they order'd, 1. That no man walk in the Church during the Service, Sacraments, or Sermon, nor disturb the Service of the Church. 2. None at any time to carry Burdens, Baskets, or other Portage whatsoever thorow the Church. 3. Parents and Masters of Families to forbid their Children and Servants to play at any time in the Church, or misdeemean themselves there in time of Divine Service: which Orders were confirm'd by his Majesty, and publish'd in print. And there being some Houses and Shops adjoining to St. Paul's, which were thought fit to be demolish'd for the better repairing and ornament of that Cathedral, some of the Commissioners were appointed to treat and compound with the Owners, having especial regard to Widows, Orphans, and the poorer sort. That the Owners, if they conform'd themselves, should receive such Satisfaction, according to their Interests, as their Lordships should think reasonable; otherwise the Sheriff of

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London was requir'd to see the same perform'd, it being not thought fit the Obstinacy of those Persons should hinder so considerable a Work. Hereupon Compositions were made with the Owners; and some were appointed to take the Surrenders of the Leases compounded for, which were to be put into the Council Chest: and the Surveyor informing the Commissioners, That the greatest part of the Houses in the Parishes of *St. Faith* and *St. Gregory*, were within the Wall of *S. Paul's* Church-yard, and built to the nuisance of the Church, and therefore might in justice be pull'd down also; the Inhabitants were to be dealt with to settle some Annuities on the Parson of *St. Gregory*, the Almoner, and Choristers for the Losses they would have by the demolishing the other Houses: And that it should be inquir'd into whether there was not convenient room for the Habitation of the said Parson, Almoner, and Choristers in the Quarter on the North-side of the Church built for the Dean and Petty Canons, in manner of a College. And the Parishioners of *St. Gregory's* having begun to make a Vault for their Dead, of such a length on the South-side, as would endanger the Foundation of the Cathedral; the Council order'd the said Vault to be shortned, a Separation Wall to be made, and the place fill'd with Earth. Afterwards the Wall of *St. Gregory's* Church was by the Lords of the Council order'd to be pull'd down, as an impediment to the Work. At last *St. Gregory's* Church it self was found an impediment to the Work also, and the Parishioners order'd to take it down, and remove it to another place. They petition'd the Council to be excus'd, alledging Disability; but their Lordships would not vary from their former Order, till at length for their pretended Disability, and for want of a fit place to erect another Church in, the Parishioners being above 3000 Souls were assign'd to the West end of *Christ Church*; and *Christ Church* refusing to admit them, but upon hard terms, the Privy Council order'd them to assemble there without any terms at all. In April came on the Trial of *Mervin Lord Audley*, Earl of *Castlehaven* in Ireland. Three Indictments were found against him at *Salisbury*: The one for a Rape upon his own Wife for holding her by force, while

*St. Gregory's Church*  
*by St. Paul's.*

*The Trial of Mervin Lord Audley.*  
one

Ann. 1621.

Questions  
propounded  
to the Judge  
and an-  
swer'd.

one of his Minions against her will had carnal know-  
ledg of her ; so that he was *presens, auxilians, com-  
fortans*, and therefore a Principal: The other two  
were for Buggery with a man. Friday before his  
Trial seven of the Judges (as many as were in Town,  
except Baron Denham) being assembled at *Sergeants  
Inn* in Fleetstreet, *Heath* Attorney General propos'd to  
them these Questions: 1. Whether a Peer may waive  
his Trial by Peers, and put himself upon God and the  
Country. The Judges answer'd, he may not, for 'tis  
the Law declar'd by *Magna Charta*, and if he will not  
plead to Trial by his Peers, it's a standing mute.  
2. Whether a Peer may challenge his Peers? *Answ.*  
He may not, for they are not upon their Oath, and a  
Challenge is try'd whether he stand indifferent as un-  
sworn. 3. Whether a Peer may have Counsel? *Answ.*  
Yes, for matter of Law, but not for matter of Fact.  
4. Whether the Wife may in this case be a Witness  
against her Husband for the Rape. *Answ.* She may,  
for she is the Party wrong'd; a Villain may be a  
Witness against his Lord in such cases. 5. If a Prisoner  
stand mute in the case of Rape or Buggery, may he  
have his Clergy? *Answ.* He may. 6. May he not be  
deny'd his Clergy upon the other Indictment for a later  
Buggery? *Answ.* He may by 13 *Eliz.* 1. 7. Whe-  
ther if one stands mute, Evidence may be open'd, tho'  
the Delinquent is to be press'd to death? *Answ.* 'Tis  
in the discretion of the Court. 8. Whether the Party  
may pray Clergy (where allowable) before he an-  
swers? *Answ.* He may: for this is a Confession.  
9. Whether in Rape there must be *Penetratio*?  
*Answ.* Yes. 10. He having made suit to be bail'd  
whether it may be granted? *Answ.* He may be  
bail'd *ex gratia*, but he cannot require it in justice.  
At another Assembly of the Judges, 1. A difference  
was taken between Buggery and Rape: For Buggery  
being made Felony by a Statute, Clergy is taken away  
in the very Creation of the Offence; whereas Clergy  
did lie for a Rape, till it was taken away by a Statute.  
2. A Peer might eat and drink before they were  
agreed, but they cannot separate or adjourn before  
they give their Verdict; 26 *H. 8.* Lord *Dacres* &  
*Greystock's* Case. 3. A Verdict cannot be given by

less number of Lords than twelve; and if twelve be for the King, and thirteen for the Prisoner, the Prisoner is acquitted; Lord *Dacre's Case*. 4. In an Appeal, if the Defendant be mute, he shall be hang'd; it being an Attainder, and not within the Statute of *Westminster 1. de pæne fort & dure*: The same in Treason, *vide Stamford*. And a Peer is within that Statute, and shall be press'd to death. 5. If the Lord *Audley* should have his Clergy upon his being mute, yet he may be try'd upon the other Indictments of Rape and Buggery, and shall not have his Clergy by the Statute 18 *Eliz.* for that they are Offences not within Clergy. 6. The Lord Steward after Verdict may take time to advise upon any point in Law, for his Office continues till Judgment: Lord *Dacre's Case*.

At the Trial of the Lord *Audley* there were 27 Peers, besides the Lord Steward, *viz.* The Lords High Treasurer and Privy Seal, fourteen Earls, four Viscounts, and seven Barons. On the day of the Trial, the Lord Keeper *Couentry* (constituted by a Commission under the Great Seal Lord High Steward for the time being) with seven Maces before him, the Peers, Judges, King's Counsel, and Officers of the Court, came into a long Gallery erected in *Westminster-Hall*, at the upper end whereof was the Cloth of State for the Lord High Steward, and Benches for the Peers, and a little lower for the Judges; and a place for the King's Counsel and Officers of the Court, and below that the Bar for the Prisoner. The Lord Steward ascending the State, and being seated in the Chair, his Majesty's Commission was presented to him, which was read; then *Maxwel* the Usher of the Black Rod kneeling down, presented him with a white Staff, which he gave to a Sergeant at Arms, who held up the same on the right hand of the Chair of State. Then the Lord Steward gave leave to the Peers, Lords, Judges, and Privy Counsellors to be cover'd; and the Peers being severally call'd by their Names, answer'd hereunto. The Indictments being brought in, the Prisoner was brought to the Bar. The Lord Steward told him, the King understood he was impeach'd of Crimes of a high nature, to try the truth whereof he brings him this day to his Trial; doing herein as the



Ann. 1631.

King of Kings, 18 *Genesis* 20, 21. who went down to see whether the Sins of *Sodom* and *Gomorrhah* were as grievous as the Cry of them. If he were innocent, he advis'd him to speak boldly and confidently; but if guilty, to confess his Faults: for all Shifts and Subtilties to hide the Truth, are but *Concilia adversus Dominum*. The Lord *Audley* answer'd, he had been a Prisoner these six months, without Counsel or Advice; and being ignorant of the Law, and but weak of Speech, he desir'd Counsel to speak for him. The Lord Steward reply'd, he should ask nothing allowable by Law, but it should be granted; and demanding of the Judges, whether the Prisoner might have Counsel, they answer'd negatively as to matter of Fact, but in matter of Law he may. Then the three Indictments were read; two for Sodomy with his Footman, and the third for a Rape upon his own Wife: To all three he pleaded Not guilty, and put himself upon Trial by God and his Peers. The Lord Steward told the Peers, that the Crimes wherewith he stood charg'd were to be prov'd by Evidence, and tho in some they may breed detestation, their Reason ought to sway their Judgments and Affections; That if they doubt of any point in Law, they are to propound it to him, and he to the Judges. Sir *Thomas Crew* the King's Sergeant open'd the Charge: He said, they were Crimes scarce heard of, especially one of them; That his Majesty would have the Prisoner heard with as much Favor as Crimes of this nature would admit, and when he first heard thereof, gave strict Command that the Truth should be search'd out. As to the Rape, it was King *Athelstan's* Law before the Conquest, That if the Party were a Whore, yet there may be a Ravishment: but 'tis a good Plea to say she is his Concubine. In an Indictment of Rape, *nullum tempus occurrit Regi*; but in an Appeal of Rape, a time is limited for Prosecution. If a man ravishes a Maid, and she afterward consents to marry him, yet 'tis a Rape. Of Sodomy our Law had no knowledge, till by the Statute 15 *H. 8.* it was made Felony: the only question is, whether it be *Crimen Sodomiticum sine Penetratione*; and the Statute 15 *Eliz.* distinguisheth not, nor must we. The Prisoner had habituated him-

Sir Tho.  
Crew opens  
the Charge.

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self to Sin; he was constant in no Religion; at Mass in the morning, and at a Protestant Sermon in the afternoon. He would have his own Wife naught; if she loves him, she must love his Page: She was subject to him, and if she did evil at his command, he must answer for it. His Bounty towards S. is remarkable; he calls him his Favourite, lets him spend several thousands a year, and if his Wife or Daughter would have any thing, they must lie with S. The Witnesses were then produc'd, who testify'd, that he held both the Hands of his Lady, and one of her Legs, till his Servant had lain with her; immediately whereupon she would have kill'd her self with a Knife, but was prevented. It was prov'd he us'd the Body of one of his Men, as the Body of a Woman; other things were prov'd, not fit to be nam'd. The Counsel for the King then spake, That in so dark a business, a clearer Proof could not be had; That the Land was desil'd by these Abominations, and to prevent God's Judgments, let this wicked Man be taken away from among us. The Lord Andley in his defence alledg'd, his Wife was by her own Testimony dishonest with *Broadway*. The Lord Steward told him that made against him, for he forc'd her to it. Then he said, his Wife and Servants were drawn to testify against him by his Son, who sought his Life; and demanded, 1. Whether his Wife was to be admitted a Witness against him. The Judges answer'd, she may in criminal Cases, where she was the Party griev'd, tho not in civil. It was propounded, 2. Whether if it be prov'd, that the Party ravish'd is of unchast Life, it will amount to a Rape. The Judges answer'd affirmatively, tho a common Strumpet. 3. If to be judg'd a Rape, tho the Woman complain'd not presently. *Ans.* She shew'd her dislike; and in an Indictment there is no Limitation of time. 4. Whether Men of no worth shall be Witnesses against a Baron. The Judges resolv'd, any man may be a Witness in Felony. The Lord Steward then told him he had been graciously dealt with; for he had heard the Examinations of the Witnesses long before his Trial, and question'd and oppos'd them to their faces; and now they were ready to hear him, if he had any thing else to say. Where-

7 Car.

*Witnesses  
produc'd.  
Rape.*

*Sodomy.*

*Lord And-  
ley's Ob-  
jections an-  
swer'd by  
the Judges.*

Ann. 1631.



The Peers  
withdraw.

Give their  
verdict.

Ld Audley  
condemn'd.

Broadway  
and Fitz-  
patrick  
try'd.

Judges  
Letter to  
the Lord  
Keeper.

upon he made a solemn Protestation of his Innocency, and pronounc'd three Woes, to him whose Wife or Servants shall be allow'd Witnesses to take away his Life, and whose Son shall prosecute and conspire his Father's death; and he will'd the Lords to consider it might be their own cases, or the case of any Gentleman that kept a Footman, or whose Wife was weary of him, or whose Son had a mind to draw his Servants into a Conspiracy. The Prisoner being withdrawn from the Bar, the Peers likewise withdrew, and after an hour's Debate, and consulting four times with the Lord Chief Justice, and sending two Lords and the Chief Justice to consult with the Lord Steward, and being ask'd one by one, all gave him in guilty of the Rape, except the Lord North: But as to the Buggery fifteen condemn'd him, and eleven freed him. Then the Prisoner being brought to the Bar, the Lord Steward inform'd him his Peers had found him guilty, and ask'd what he could say why Sentence of Death should not be pronounc'd against him. And he referring himself to God's and the King's mercy, the Lord Steward sentenc'd him to be hang'd; and continuing his Speech, put him in mind of his horrible Offences, and (tho he doth not suffer for that) how he abus'd his own Daughter, in prostituting her to a Varlet; That it grieved him to see him stand out against the Truth: He exhorted him to spend the Remainder of his time in Tears and Repentance. At last the Lord Audley humbly petition'd the Lords to mediate with his Majesty, that he may not die, but be banish'd; at least to give him time of Repentance.

In Trinity Term following Giles Broadway, who ravish'd the Lady Audley, and Florence Fitzpatrick with whom her Husband committed Buggery, were try'd in the King's Bench. Their own Depositions were taken for Evidence, and they were found guilty and condemn'd. And the Judges the same day (the 28th of June) writ a Letter to the Lord Keeper, acquainting him therewith, but they had forbore awarding Execution upon a Message from his Lordship to that purpose; That Broadway impudently deny'd his own Confession, pretended he knew not what he had scrib'd, and with great Execrations profess'd himself

guiltless



guiltless; and would not be satisfy'd till the Lady was produc'd, who by her Oath convinc'd all the Hearers. *Fitzpatrick* confess'd his Examinations, but was so senseless, that he would have had them true against the Lord *Audley*, but not against himself: he pretended he was promis'd Security, if he would be a Witness against the Lord *Audley*. They conceive, that seeing their Testimony had been taken to bring a Peer to his death, for an Offence as much theirs as his, it stands with Justice that they should suffer as well as he, lest any Jealousy should arise of the Truth of the Fact: They desire his Majesty may be made acquainted therewith. Hereupon the King signify'd his pleasure they should be executed, and on *July 4.* they were executed accordingly.

Sir *Giles Allington* had marry'd his Niece, for which he was prosecuted in the High Commission Court. He had before consulted with the Archbishop and other Divines, who endeavour'd to satisfy him of the incestuous nature of such Copulations. But he had also (it seems) consulted *Bellarminé*, who tells us, the *Levitical Law* interdicts the Marriage of the Nephew with the Aunt, but not of the Uncle with the Niece, for this reason, because (saith he) the first changeth the natural Subjection due from a Nephew to his Aunt, who instead thereof by such Marriage inverts the Order of Nature, and makes her self subject to her Nephew; whereas if a Niece marries her Uncle, the natural Subjection is rather doubl'd than destroy'd. But by *Bellarminé's* leave, the same Medium would have serv'd him to have prov'd the Lawfulness of a Father's marrying his own Daughter. Sir *Giles's* Purse buoy'd him up a long time in the High Commission Court; but that Court growing too hot for him, he flew to the Common Pleas, where he obtain'd a Rule requiring the High Commission to shew cause why a Prohibition should not be granted, and if before that they proceeded, then a Prohibition was absolutely granted. This was so bold a stroke in those days, when the Clergy had gotten the whole Power of the Kingdom in their hands (as in truth they had in the prosperous part of this King's Reign) that the King himself interpos'd, and by the Lord Keeper reprimanded

*Sir G. Allington*  
marrying  
his Niece is  
prosecuted  
for it.

Ann. 1631.

By Laud  
threatens  
the Judges  
with Ex-  
communi-  
cation.

Sentence  
against Sir  
Giles and  
his Niece.

Card-  
makers.

Marshal's  
Court.

reprimanded the Judges, and *Laud*, then Bishop of *London*, threaten'd to excommunicate them in his own Diocese, and declare it at *Paul's Cross*, in case the Archbishop of *Canterbury* did not do it in his Province: For altho the Bishop could dispense with Adultery (as in the case of the Lady *R.* of which an account is given in the first Volume) yet he was, it seems, no Friend to Incest; and the overaw'd Judges not daring to proceed further, poor Sir *Giles* was left to the mercy of the incens'd High Commission-Court, where eight Bishops and four Civilians sentenc'd him 12000*l.* Fine to the King, to be bound in 20000*l.* not to cohabit or be in private with her, and he and she to do Penance both at *Paul's Cross*, and at *Great St. Mary's* in *Cambridge*.

A new Invention was set on Foot for raising of Money to the King's use, by erecting an Office for sealing of Playing Cards, and one *Cogan* made Farmer of the Duties. The Master and Warden of the Company of Cardmakers opposing this, were sent for by the Council, and requir'd to bring with them the Charters and Ordinances of their Corporation, and the Seal which it seems they had taken from one *Watkins*, who was imploy'd in this Project; and order'd two of the Cardmakers, whom they had committed to a Sergeant at Arms, should continue in custody, till the Business was settled for the new Patentees, and no Cards to be sold till seal'd. These severe Proceedings forc'd the Company to a compliance; and it was agreed between the King and the Company, That the Company should every Week make so many Grofs of Playing Cards as in a Schedule annex'd, and deliver them to such Persons as the King should appoint, And the King was to pay for them so much a Grofs weekly, and they to allow so much for the Sealing, as in the said Agreement was express'd. The like Contract with the Cardmakers.

King *James*, Anno 22. having erected a new Court of the Marshal of the Household, to hold Pleas *non existentibus de Hospitio Regis*, which Grant was confirm'd 6 Car. and a Writ of Error being brought in the King's Bench, upon a Judgment given in the Court, the Knight-Marshal doubting the validity

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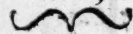
his new Grant, procur'd the King to write a Letter expostulatory to the Judges of the King's Bench about it. To which the Judges return'd this Answer: That about two years since they were consulted by the Attorney-General about this new Grant, and Copies were appointed to be brought them, but no Copies were deliver'd them, nor did they ever hear more of it: That some brought Writs of Error, but never proceeded to Argument or Judgment: That they never knew of this new Grant till it was pass'd: That a Writ of Error is brought before them by *Fisher* against *Wagstaff*, but it hath proceeded no further than the reading the Record; and the only Error assign'd is, That neither Party was of his Majesty's Household; but what Points Counsel will stand upon, the Judges know not: That they cannot stop the course of ordinary Proceedings, but when it comes before them, they shall be very tender of his Majesty's Prerogative: And whereas he desires to be inform'd of the defects of the last Patent, they pray they may have the assistance of the other Judges in so important a matter.

The Council wrote Letters to the Lords Lieutenants of each County, taking notice, that the entertainments of the Muster-masters, tho no more than usually allow'd, were denied to be paid by some refractory Persons, who were encourag'd thereunto by the Lords Lieutenants and their Deputies who scrupled to set their hands to the Assessments thereof; and signifying it was his Majesty's Command, that they and their Deputies should set their hands to such Assessments; and if any refuse to pay the Rates assessed on them, they cause them to be bound over to answer their Contempts before the Council, and that they take care that the Muster-master perform his Duty. The Council also order'd the Train'd Bands of several Counties to march to the Sea-Coasts, and divers refusing to pay the Muster-masters, were sent for by Messengers to the Council; some of whom, upon their promise of payment for the future, were discharged.

The King of Sweden appointed General *Lefly*, af-  
terwards Earl of *Leven*, to wait on the Marquis of *milton*  
*Hamilton* at his Landing, which he desir'd might be at *sails thro*  
*Breme*. But the Marquis, who was put in hopes that *the Sound*.



Ann. 1631.



And lands  
in Germa-  
ny with  
6000 men.

Goes to the  
King of  
Sweden.

Is sent to  
keep some  
Passes.

The Plague  
broke in on  
his Army.

the Auxiliary Forces should meet him there, seeing no other appearances besides Words and Promises, thought it not safe to land his little Army at that distance from the *Swedish* Camp, and therefore sail'd through the *Sound*, and at *Elsenore* went ashore to kiss the King of *Denmark's* hands, and deliver the King's Letters to him. From thence he dispatch'd *Pennington* to the King for further Orders, whose Answer was, That he shall know his Resolutions concerning *Germany* very shortly, intending to dispatch *Sir Henry Vane* within ten days; that he shall see he doth not forget him, &c. The Marquis set sail again, and landed with above 6000 able men at the Mouth of the *Oder*, between *Voll-gast* and the Isle of *Usedom*, where the *Swedes* had first landed. Passing to the Continent, he had a Return from the King of *Sweden* by the Messenger he sent to him: That the King appointed him to go into *Silesia* for reducing that Country, promis'd the Auxiliaries should meet him on his way, and sent him a Commission to be his General in *Silesia*. This Army was represented in *Germany* to be 20000 men, and struck a terror into the Imperial Party; the Fame of it made the Elector of *Saxony* join with the *Swedes*, encourag'd the Protestant Party, and oblig'd *Tilly* to leave 6 or 7000 more in his Garrisons than he intended, which weaken'd him at the Battel of *Leipsick*. But the Country was so wasted, that they met with nothing but *Variation*, *Plague* and *Famine*. The King of *Sweden* desir'd to see the Marquis, who found him at *Werbon*, and was caress'd by him with the highest expressions of Kindness: He discover'd in that King an air of Majesty and Courage, neither was his Prudence inferior; but these Excellencies were foil'd with unsupportable Pride and Ambition. The King press'd the Marquis to solicit his Master for a more vigorous Supply of Men and Money, excus'd his not sending the Forces, designing presently to give *Tilly* Battel; and so he sent him away to keep *Custrin*, *Frankfort* and *Lansberg*, and other Passes on the *Oder*. The Marquis march'd with his Army to *Frankfort*, where the third part of them was in a few days swept away with the *Plague*; and after the great Victory of *Leipsick*, the Marquis was order'd to march up to *Silesia*, tho 200

Horse

Horse and 300 Foot were all the Auxiliaries the King sent him. The Marquis having notice that *Crossen*, a Town in the Borders of *Silesia*, in the Swedes hands, was besieg'd, sent *Lestly* with 500 men to relieve it; but the Enemy retir'd, leaving great part of their Baggage and Cannon behind them. And there being 2000 men drawn out of *Guben*, a Town in *Silesia*, for recruiting the Imperial Army, and but 500 remaining, *Lestly* was sent with 600 men to surprize it, who possess'd themselves of the Drawbridge as soon as let down in the Morning, forc'd the Gate, and entred the Town; many of the Enemies were kill'd, and about 250 Soldiers, four Captains and some other Officers taken Prisoners, who took service under the Marquis. And as he was setting forth for *Glagow*, with good hopes of carrying it, he receiv'd Letters from the King of *Sweden*, appointing him to follow him into the *Lower Saxony*, because that Elector had undertaken to reduce *Silesia*: But the King was blown up with Success, and the Marquis afterwards understood, that *Silesia* being united to the Crown of *Bohemia*, the King would not trust him long in any Country where the King of *Bohemia* had interest; so the Marquis had Orders to go and besiege *Magdeburg*.

Altho several of these matters were transacted after the Battel of *Leipsick*, yet we were unwilling to break off the thred of our Story, until the Marquis's being recall'd from *Silesia*; of which Battel, and the Victory obtain'd there by the King of *Sweden* over *Tilly*, the King by Letter, dated *Septemb. 17.* gave the King of *England* this account: That after the Elector of *Saxony* had join'd him, they march'd against *Tilly*, who had drawn up his Army a mile from *Leipsick*; the Business was briskly manag'd for four Hours, but then the Enemy put to flight, and lost their Cannon and Baggage; the General being wounded, retir'd into the Bishoprick of *Halberstadt*; the Sergeant Major General, and other Commanders kill'd; among some thousands of Prisoners, the Duke of *Holstein* and others of eminent Quality: He hopes the facility of setting up the afflicted Cause of the King of *Bohemia*, shall now appear, and that his Majesty will make use of so fair an opportunity.

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Ann. 1631.

Another relation of it.

A particular Relation of which Battel was written by *Gustavus Horn*, Lord Marshal General to the King of Sweden, to this effect: That after the King of Sweden had join'd himself with the Armies of the Dukes of Saxony and Brandenburg, it was consulted whether it were best to bring it to a Battel presently, or by delay to weaken the Power of the Enemy: The King was of opinion not to put all in danger by a Battel, uncertain in its event; but the Duke of Saxony insisted on a Battel, as the only means to drive the Enemy out of his Country: Nor was it possible for the Armies to subsist long there, where the Enemy was Master of the best part of the Country; which Advice being follow'd, we march'd and met the Enemy a mile from *Leipsick*, which they had taken. The Enemy had the Wind and higher Ground; the King's Army was on the right hand, the Saxons on the left: The King commanded the Avant-guard of the right Wing, with the best arm'd Horsemen, interlac'd with Musquetiers in the Rear-guard; in the Vant-guard of the Battel stood four Squadrons of Pikes and Musquetiers, in the Rear-guard three: after these, two Regiments of Horse commanded by *Gustavus Horn*, the rest of the Horse were divided into the Right Wing, Vant-guard and Rear-guard, mingled with Musquetiers. The Horse and Foot Regiments of the Duke of *Holstein* retreated from the Battalia, the Enemies Left Wing was broken and put to flight; their Battel consisting of all Foot, march'd down the Hill, together with their Horse, and most of the Foot fell upon the Duke of Saxony's Army, and the Saxon Foot almost fled; the Enemies Horse all fell upon our Left Wing, but were soon put to flight: And while they pursu'd the Saxons, our Left Wing charg'd into their Flank, and upon the two Troops of Reserves, where we lost many of our Horse; but when *Gustavus Horn* had soundly charg'd the Enemies Battel with that Regiment of *Gothland* Horse the King sent him, together with the commanded Musquetiers, the Enemies Battel broke, and they were all put to flight, except four Regiments, who being cover'd with Smoke and Dust, sav'd themselves. After this Victory the King of Sweden, the Dukes of Saxony and

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*Mecklenburgh, Lantgrave of Hesse and other Princes of the Empire his Confederates, obtain'd several Victories, took in divers strong Towns and Places of Strength; and among others the King took Mentz, Worms, Oppenheim, and almost all the Towns of the Lower Palatinate.*

Mr. Thomas Ford of Magdalen-Hall, Mr. Giles Thorne of Baliol-College, and Mr. Giles Hodges of Exeter-College in Oxford, having in their Sermons at St. Mary's us'd expressions against the Arminians, under the title of Pelagians and Semi-Pelagians, for which they were convented before Dr. Smith the Vice-Chancellor, as Offenders against the King's Instructions: They appeal'd to the Proctors, who receiv'd their Appeals; whereof the Bishop of London complaining to the King, the Business was heard before his Majesty at Woodstock, and upon the hearing it was order'd, that Ford, Thorne and Hodges should be banish'd the University, and the Proctors resign their Office. Dr. Prideaux, Rector of Exeter-College, and Dr. Wilkin-son Principal of Magdalen Hall, receiv'd a sharp admonition for their Behaviour therein. Mr. Hodges submitted, and was order'd to make a Recantation-Sermon at St. Mary's, and a Submission and Recantation on his bended Knees in the Convocation-house. In his Recantation he acknowledg'd he fell upon those Points which were forbidden by the King's Injunctions, and had disparag'd the Government of the Church, as if it made erroneous and heretical Opinions the way to Preferment: But Mr. Ford refus'd to make any Address to be restor'd; and when it was intended to chuse him a Lecturer in *Plimouth*, they were requir'd not to do it on pain of the King's Displeasure.

It continuing a great eye-fore, that Goldsmiths-Row in *Cheapside* should be intermix'd with Shops of meaner Trades, and the former Order of reference to the side Judges having had no effect; it was after several Debates in Council order'd, That the Goldsmiths Company should take care that Goldsmiths Row and *Lombardstreet* be supply'd with Goldsmiths, and that those who keep Shops in other parts of the City, should have Shops provided them there by a time limited, upon penalty that such as did not take care therein

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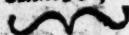
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Ann. 1631.



Lord Chief  
Justice  
Hide dies.  
His Cha-  
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therein should lose their Places; and every one to be made free of that Trade should give Bond not to keep Shop elsewhere, than in *Cheapside* or *Lombardstreet*.

In *August*, Sir *Nicholas Hide* Chief Justice of the King's Bench died. Justice *Whitlock* in a Memorial written of him, commends his Integrity, Wisdom and Temper in those ticklish times, and saith, he would never give the King a positive Answer in any weighty point of Law, until he had confer'd with his Brethren, and the King ever gave way to it: He was 59 the *May* before he died.

Marq. Ha-  
milton's  
Army.

To return to the Marquiss of *Hamilton*, when he was to march into *Lower Saxony*, his Army was strangely diminish'd; for he was forc'd to leave 1000 behind him with the Plague upon them, and about another thousand were divided into Garisons; so he had but 3500 of his own men, and about 3000 *German* Foot whom he had rais'd. With these and 1000 *Swedish* Horse he block'd up *Magdeburg*, the chief Town of the *Lower Saxony*, which had a Garison of 3000 in it: It had been besieg'd and taken by *Tilly* the same year, the Inhabitants butcher'd without respect to Age or Sex, and the City burnt to Ashes except 80 or 100 Houses about the great Cathedral: it was full of Riches, for *Tilly* had brought thither all his Plunder; too strong to be attempted by Storm, and could

Sir H. Vane  
Ambassador  
at Sweden.

only be carried by starving. At this time the King sent over Sir *Henry Vane*, Ambassador to the King of *Sweden*, who landing at *Hamburg*, sent the Marquiss of *Hamilton* notice of it, and that he was to communicate all his Instructions to him; and to proceed according to his Advice; withal he sent him the King's Letters to the same purpose. The Ambassador would have willingly discours'd the Marquiss before he saw the King, but the King had sent for the Marquiss at the same time. Whereupon he came to the King at *Frankfort on the Main*, whom he found much elated with Success, seeming to make little account of the King's Friendship, yet expressing a great desire to finish the Agreement; and when he appointed *Gustavus Horn* to negotiate with the Ambassador, he order'd him to make the Marquiss Umpire of all their differences, and said he would stand to his decision. The

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Marquis press'd that King for more Auxiliaries, but had only good words; so he return'd to *Magdeburg*. On *Christmas-Eve* the Town being much straitned came to a Parly, but during the Treaty they having notice *Papenheim* was coming to relieve them, broke it off, and *Bannier* the *Swedish* Commander would have been retiring. The Marquis press'd his stay, but he produc'd his Orders to command the *Dutch* and *Swedish* Forces, and not to hazard an engagement. This the Marquis resented as a high Affront, and retir'd to *Saltz* a two Leagues off, expecting Duke *Weimar* with 5000 men, and then resolving to give *Papenheim* Battel; but *Weimar* came not, and *Bannier* drew further off: And the Marquis being inform'd by Sir *Jacob Albey*, that he might at any time pass the River *Sala* in a quarter of an hours warning, in spite of *Papenheim* and his Army, he would not stir. *Papenheim* (whose Army he himself gave out to be 10 or 12000, tho they were but 4700) getting into *Magdeburg*, and finding it not tenable, march'd away with the Garison, and every thing worth carrying: The Marquis and he in a Plain fac'd one another, but *Papenheim* march'd away; and the Marquis entred *Magdeburg*, and found 40 pieces of Cannon, and Store of Ammunition and Corn; and in *February* went to the King of *Sweden*, who receiv'd him with his former kindness.

*Magdeburg parlies.*

*Is reliev'd by Papenheim. Who leaves it.*

There began a notable Trial in the Court of Chivalry before *Robert* Earl of *Lindsey*, Lord High Constable of *England* *hac vice*, and *Thomas* Earl of *Arundel*, Earl Marshal of *England*; between *Danald Mackay* Lord *Rea* Plaintiff, and *David Ramsey* Esq; Gentleman of the King's Privy Chamber, Defendant. The Lord *Rea* had impeach'd *Ramsey* and *Metarum*, for moving him in *Germany* to a Conspiracy, for making the Marquis of *Hamilton* Head of a Party against the King, as hath been before hinted; and *Ramsey* offering to clear himself by Combat, and the Lord *Rea* accepting thereof, and the King seeming desirous it should be put upon a Duel, the Lord Keeper and the Judges of the King's Bench were consulted with what the Offence was, and where the Trial may be; And they were all of Opinion; 1. If the Examinations were true, it was High Treason. 2. The Trial might be

*The Cause in the Court of Chivalry between Rea and Ramsey.*

*The Judges Opinion.*

Ann. 1631.

be by an Appeal of Treason, upon which the Combat might be join'd; but the King must make a Constable to join with the Marshal, and it must be according to the Civil Law. That the Statute 35 H. 1. and 1 Mar. 10. did not take away the Proceeding before the Constable and Marshal; that Conviction in this case was no Corruption of Blood or Forfeiture; *Doughty's Case, Co. Litt. Fo. 75. Sect. Escuage*. According to this Resolution a Court of Chivalry being constituted under the Great Seal, the Plaintiff and Defendant personally appear'd before the Lords Constable and Marshal, where the Marshal spake in defence of the Court of Chivalry, but said it was an error to apprehend, that as soon as an Appeal was brought there must be a Duel, for that is the ultimate Trial in defect of all others; and then it lies in the Court's Breast, whether a Duel shall be granted or not. Then Dr. Duck spake of the Antiquity, Jurisdiction and Necessity of this Court: After which the Lord Rea's Petition to the King was read, importing, that he is ready to maintain with the hazard of his Life, the Truth of his Accusation of *Ramsay*; but seeing Trials by Duel are *ultimum Remedium*, and he reveal'd as well what he heard from one *Meldrum*, against whom Captain *Borthwick* hath been examin'd, as what he heard from *Ramsay*, who cannot be innocent if *Meldrum* be guilty; he therefore, not out of any inclination to decline the Combat, but out of a desire to have the truth discover'd, prays *Meldrum* may be first proceeded against; and if upon his Trial the Conspiracy do not appear, he is content to be either Defendant or Challenger, as the Court of Chivalry shall award.

Lord Rea's  
Appeal.

The Petition being read, the Lord Constable declar'd his Majesty's Pleasure, that this Cause should be tried in this Court, and gave the Lord Rea's Appeal to be read, which charg'd *Ramsay* with several Discourtes had between them in *Sweden* and *Holland*, great part whereof *Ramsay* in his defence acknowledg'd to be true, wherewith we shall not trouble the Reader, but insert only what was affirm'd by *Rea*, and denied by *Ramsay*. *Rea* charg'd him, That they being together in a Ship at *Elfenore* in *Swedeland*, *Ramsay* told him of many Abuses in the Court of *England*, and that there

was



was nothing to be look'd for but Desolation and Change of Religion, and therefore he had retir'd himself thence, since no honest man could live there. *Rea* answer'd, the Lord mend those evils, and no remedy but patience. By God, *Donald* (said *Ramsley*) we must help God to mend it. And then *Ramsley* told him, he had brought as much Gold with him, as would maintain him at the rate of six pounds a day for three years; and he assur'd *Rea* before that time would expire, God would raise up some men to defend his Church, and liberate honest Men from Slavery: And *Rea* asking what content the Marquis of *Hamilton* had at home, *Ramsley* said none. And they speaking of the Army the Marquis would have, What Advantage (said *Rea*) will it be to us to make a free passage for the Gospel in *Germany*, if we lose it at home? *Ramsley* answer'd, there are many honest men in our Land (meaning *Scotland*) adding, if we had once an Army over (*viz.* in *Sweden*) what would you think if we should take a start to settle them also? for e'er it be long, you'll hear our Country will go together by the Ears: some such thing perhaps is intended, but I will not tell you more, for my Master's secrets are dear to me. And the third day after in an Island, *Rea* telling *Ramsley*, he had a promise of the Reversion of *Orkney*, if the Marquis would mediate for him to the King, and that it was good the Marquis had a Friend there for his ends; *Ramsley* ask'd if there were good Harbours in *Orkney* or in *Rea's* Land, or in any part that might be fortified: and *Rea* answering, Yes; By God, said *Ramsley*, it is to be thought upon. And *Ramsley* caus'd *Rea* to write a Letter to the Marquis concerning *Orkney*, and promis'd great Friendship from the Marquis, if he would continue constant in his Resolution. And *Rea* telling him he had a Letter from the King of *Sweden* to the King of *Great Britain*, desiring some Ships for the Marquis; *Ramsley* answer'd, the Marquis and I must beware of that, for then they will think we mean to take their Land with their own Ships. *Rea* then asking where these Forces should land, *Ramsley* said in the King of *Denmark's* Country: But what think you, said *Ramsley*, if we should plunder some nook of his Land, and thereafter go where we

Ann. 1631. we please, for we think he will be the only man that will be most against us? That *Ramsay* saying the Marquis was to raise one Regiment in England, *Rea* ask'd will they be true to us? and *Ramsay* answer'd there were *English* that my Lord was as much assur'd of as of any *Scots*. *Rea* ask'd where we should make these meet, *Ramsay* said at *Harwich* or *Tarmouth*: And *Rea* asking if they were fortified, *Ramsay* said, no parts of all those Coasts in England or Scotland could hold us from Landing. That they had Discourse about *Meldrum*, who *Rea* said was an evil Secretary, for he had told him many things, which he believ'd he had told to others also; but *Ramsay* said *Meldrum* knew nothing when *Rea* came from England, tho he might suspect. *Rea* said he would hazard Life and Fortune with the Marquis, but he would know the Business. *Ramsay* answer'd he would tell no more of his Master's Secrets, but that he would write a Letter by him to the Marquis, who would tell him that which *Ramsay* would not, but desir'd him not to tell the Marquis what had pass'd between them, that so the Marquis might have all the thanks to himself; adding, the Marquis was very close, but would discover himself to those who would hazard with him; and that *Rea's* Brother-in-law *Seaforth* knew all, for the Marquis trusted him much. And as for *Orkney*, nothing would be done till *Rea's* coming to the Marquis, and perhaps he should have it better cheap than to pay the Duty of it; and that *Spain* and *Holland* were striving who should drink up England, but I hope (said *Ramsay*) we shall prevent them both; and that my Lord had written to him, that he had 90 pieces of Cannon great and small already provided; that *Ramsay* ask'd his Advice, whether it were best to cross the Seas and go on bravely. *Rea* said, Delays were not good, to which *Ramsay* assented. And the Lord *Rea* concluded his Appeal, that if *Ramsay* deny'd the Premises, he is a false Traitor and lieth falsely, and offer'd to justify his Accusation in a Duel; and then threw his Glove in the Court, and having petition'd the King to assign him for his Counsel the Persons in the Schedule annex'd, being in 16, and among them two Civilians and two Common Lawyers, the same was granted.

*Ram*

Ramsley in his defence to the said Appeal, altho' he confess'd several of the matters therein, denied all and every the matters before-recited, saving that true it is, that he promis'd the Lord Rea great Friendship from the Marquiss, if he would continue constant in Resolution, in joining his two Regiments to the Marquiss's Forces, when they should come over; and concluded his Defence, that the Lord Rea having affirm'd, that he said other words to him than what are set down in this his defence, lies falsely, and is a false Calumniator, and ought to be punish'd with the punishment of a false Traitor; and he offer'd to justify this his defence in a Duel, and threw his Glove in the Court, and petition'd the King for Dr. Eden to be assign'd his Counsel, which was granted. The Witnesses in this Cause were then examin'd, and divers Letters written as well from the Marquiss as from Ramsley to the Lord Rea were produced; and Ramsley having been releas'd out of the Tower upon giving 4000 l. Bail to appear on three days warning, and in the mean time to keep the Peace, and confine himself to Richmond, with liberty of three miles walk, entred a Protestation in Court, wherein he desir'd his Bail might be discharg'd; and accordingly he was remanded to the Tower, and his Bail discharg'd.

At another sitting the Earl Marshal declar'd, that the Lord Rea had all along govern'd himself with much Prudence and Moderation, and wish'd Ramsley had shew'd the like; that the King had us'd all diligence to find out the truth, and call'd the Parties before him, and the one constantly affirm'd, and the other as constantly deny'd, and offer'd a Duel; that till the Statute of H. 8. there was no other Court but this, to whom the Cognizance of Treasons committed beyond Sea appertain'd; and that Statute only superadded another way of Trial, not derogated from this. All private Duels are unlawful, but publick Duels by Authority of this Court were always held lawful, in cases of Treason, when the Truth could not otherwise appear: That there are but three ways of determining things in this Court; 1. To absolve the Accus'd, which here the Nature, Quality and Circumstances of the Crime objected will not admit. 2. To condemn

7 Car.  
Ramsley's  
Defence.



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A Duel  
adjudg'd.

denn the Accus'd, when the Crime evidently appear-  
eth by Witneses or otherwise, which cannot be here,  
for the Accusation saith, they were spoken in secret.  
3. By publick Duel, which was the way wherein the  
Court intended to proceed. Then he ask'd the Par-  
ties whether they had any more to say, which they  
answer'd negatively; and then whether they would ac-  
quiesce in their Appeal and Answer, which they an-  
swer'd affirmatively, and each of them set his Hand  
and Seal at Arms, the one to his Bill, the other to his  
Answer. Then the Lord Constable put the Appeal  
into the Glove the Lord *Rea* had cast down, and held  
them in his right hand, and in his left hand the An-  
swer and Glove of *Ramsay*; and then folding the Bill,  
Answer and Gloves together, he and the Earl Mar-  
shal adjudg'd a Duel between the Parties, under a cer-  
tain form of words, beginning with an invocation of  
the name of God the Father, the Son and the Holy  
Ghost, the Holy and most blessed Trinity, who is one  
and the only God and Judg of Battels; and by the  
said Judgment or Decree, the Place assign'd was *Tut-  
tle-Fields*, in or near *Westminster*, in the Presence of  
our Lord the King, where they were to be the 12th of  
*April* then next following; the Lord *Rea* between  
seven and nine, and *Ramsay* between nine and eleven in  
the Forenoon. The Lord *Rea* then thank'd the Court  
for their Sentence, said he had reveal'd nothing against  
*Ramsay* for Hatred or Reward, but out of his Faith-  
fulness to the King; and if another had reveal'd it, he  
had deserv'd the death of a Traitor. And where  
he might seem to have declin'd a Duel, he did it in  
hopes that the Treason, which was communicated to  
many, would be some way brought to light; for he  
distrusted not his Cause, nor fear'd his Adversary  
but was griev'd an Adversary equal to himself in Birth,  
Degree and Nobility was not offer'd. That he knew  
much more of the Treason than was in his Bill, which  
by Authority was yet to be suppress'd; that he desir'd  
no further delay of the Combat, than to provide him-  
self with such Necessaries as became his Stock and  
Kindred, and the Champion of so great a King. At  
another day the Lord *Rea* desir'd that *David Ramsay*  
might be declar'd guilty of Treason, if he utter

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those words objected against him in the Bill; and the Court declar'd and adjudg'd it so. The Earl Marshal told the Parties they must be kept in safe Custody, if they gave not sufficient Caution for their appearing at the Day and Place appointed, and for keeping the Peace; whereupon the Lord *Rea* found Sureties, who were bound to the King Body for Body: but *Ramsay* said, he had no Sureties, or at least desir'd none, it being troublesome for him to engage noble Persons who had in other respects interpos'd on his behalf; but three *Scotch* Earls voluntarily offer'd themselves, and became his Bail. Then the Court admonish'd them to keep within the Bounds assign'd them, viz. Lord *Rea* not to go Westward beyond *Charingcross*, nor *Ramsay* Eastward beyond *White-hall*. The Weapons assign'd to the Combatants were a Spear, a long Sword, a short Sword, and a Dagger, each of them pointed, with the Dimensions of each Weapon. The Lord *Rea* petition'd the Court, 1. That he might have what defensive Arms he pleas'd. *Answ.* Granted. 2. That he might have his Counsel and a Chirurgeon with his Ointments and Instruments within the Lists, and his Counsel to remain with him till the words *Lesser les* *Armes* were pronounc'd. *Answ.* Granted. 3. That he might have within the Lists, a Seat or Pavilion, or other Coverture, to rest himself, and Bread, Wine, or other Drink, Iron, Nails, Hammer, File, Scissars, Bodkin, Needle and Thred, Armorer and Tailor, with their Instruments, to serve him in and about his Armor, Weapons, &c. *Answ.* Granted, but nothing to be fixed to the Ground. 4. That he might have liberty to make trial of his Arms and Weapons within the Field, to put them off and on, and change them at his pleasure, to nail, fasten or loose his Arms, Apparel, &c. to eat, drink, and do other his necessities. *Answ.* Granted. 5. That his Adversary should not make him stay too long for him in the field, on pain of being Convict. *Answ.* The Court would do him reason. 6. That if he cannot prove his Intent upon his Adversary on the day assign'd him, he may have a further day. *Answ.* The Court will do, as antiently hath been us'd. 7. That the Field and Lists might be well and safely guarded.

*The Weapons assign'd to the Combatants. Ld Rea's Protestation or Petition, and the Answers of the Court.*

*Ann. 1631.* *Ans.* The Court will do right. 8. That if he dy'd in the prosecution of his Appeal, his Heirs may give his Body Christian Burial, where he should appoint by his Will. *Ans.* That must be at the King's pleasure. 9. That notwithstanding the Custom of Arms, others might in case of him bear into the Field the things necessary for him, or some of them, and recarry them, if he hath the Victory. *Ans.* The Court order'd he should do therein according to the Custom of Arms. 10. That on the day appointed he might have all other things necessary, tho not here mention'd. *Ans.* The Court will do what shall seem reasonable. 11. That his Adversary may have no knowledg of these his Protestations. The same Answer. 12. That he might go or ride into *Turtle-fields* at his pleasure, to view the Ground; and for other ends for his advantage. *Ans.* Granted, at convenient times signify'd under the Hands of the Lord Constable and Earl Marshal. 13. That his Adversary having publickly in Court protested against his having of Counsel, and all other Aids and Assistants, he prayeth he may not have any of them, nor any Petitions or Protestations granted him. *Ans.* The Court will do according to the Custom and Law of Arms. These Protestations were accepted and register'd. What follows concerning this matter, altho it was not done till the next year, yet we have subjoin'd it, to make the Relation of one entire piece.

*Ramsey's Petition.* Mr. *Ramsey* petition'd the Court, That where there can be no Precedent shew'd, whereby the choise of Arms was granted to the Challenger, or refus'd to the Defender, and the Challenger himself being ashamed of his Demand for defensive Armour, hath in good Company deny'd the same, and ascrib'd it to the Lordships imposing. He pray'd no other Arms might be allow'd, than what he hath been already a Suit for, viz. Rapier and Dagger, which are the most common in most Gentlemens opinions: and if there be any want of Formality in this, he prayeth it may be attributed to the Absence of the Lawyer, allow'd by the Lordships. To which the Court answer'd, as to the Lord *Rea*, they had heard Sir *William Balfour* (a Witness vouch'd by *Ramsey*) but he prov'd not what was alledg'd; and as to the Election of Arms, the

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Custom of the Court was otherwise, and other Arms were already assign'd; and the Court signify'd to the Parties the King's pleasure to prorogue the Day of Combat to the 17th of May, for the performance whereof they produc'd Sureties. Then the Lord *Rea* demanded, whether he might use defensive Arms. The Court answer'd he might at his own discretion; but the offensive Weapons and their Dimensions were already assign'd by the Court. Before the 17th of May the Court re-assembled, and the Parties appearing, the Constable together with the Marshal declar'd, they had not found *David Ramsey* guilty of Treason, nor had the Lord *Rea* made it appear, tho he had so long attempted it; but yet *Ramsey* had committed many Contempts against his Majesty, the Reformation whereof his Majesty reserv'd to himself; That the Court decreed they should be both committed to the Tower, till they found Sureties to be approv'd by his Majesty, that neither they in their Person, nor by any in their Families, nor by their Procurement or Assent, would attempt any thing against the one other: and so they were both arrested, and deliver'd over to Sir *William Balfour* Lieutenant of the Tower. Then a Letter from his Majesty was brought to the Lords Constable and Marshal, whereby he revok'd his Letters Patents, he not being willing it should be decided by Duel: and so nothing more was done in it. What his Majesty's Thoughts were of this matter, appears by his Letter to the Marquis of *Hamilton*, dated May 8. 1632. to this effect; That having now seen the end of *Mackay's* business, he thought fit to be his first Advertiser of it; doubts not he hath heard how the Combat was awarded, Day set, Weapons appointed; but having consider'd what was said on either side, and the Carriage of the Men, he was resolv'd not to suffer them to fight: For *Mackay* he hath so much fail'd in his circumstantial Probations, especially concerning *Muschamp*, that no body is satisfied with his Accusations. For *David Ramsey* the King saith, tho he cannot condemn him for that which is not, yet he hath so much offended by his violent Tongue, that he might give occasion enough of Accusation, if it had been rightly plac'd, as by his foolish and presumptuous Carriage did appear; That he hath commanded the

7 Cat.

The K. unwilling it should be decided by Duel.

His Letter to Marq. Hamilton concerning it.

Ann. 1631.

Combat  
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Court to be dismiss'd, and the Combat discharg'd, with a Declaration that he was satisfy'd there was no such Treason as *Mackay* had fancied: Advises the Marquiss not to have to do with such a Pest as *Ramsay* is, and this he desires of him as he loves him; and he dares say the Marquiss shall have no dishonor in this business.

*James Maleverer* Esq; being by Writ under the Seal of the Court of Exchequer commanded to appear before the Barons of the said Court in Trinity Term 7 Car. to make Fine for his not coming to the Presence of the King before the 31<sup>st</sup> of January 1 Car. to receive the Order of Knighthood, according to a Proclamation in that behalf, appear'd accordingly, and pleaded to the said Writ, That altho on the said 31<sup>st</sup> of January, and three days next before, his Majesty was resident at *White-hall*, and he the said *James Maleverer* Resident at *Arncliffe* in *Yorkshire*, which is 180 Miles from *White-hall*, and had no Lands or Rents out of *Yorkshire*, and that part of *Yorkshire* which is nearest to *White-hall* is 130 Miles from thence, and no Proclamation for any Person to come and take the Order of Knighthood was made in any part of *Yorkshire* before the 30<sup>th</sup> of January, 1 Car. by reason whereof the said *James Maleverer* could not come to the Presence of the King before the said 31<sup>st</sup> of January, yet the said *James Maleverer* for a Fine submitted to the said Court, and pray'd to be discharg'd of the Issues return'd upon him. But Sir *Humphry Davenport* Chief Baron, and the other Barons (notwithstanding their Writ was for him to make Fine) refus'd to impose any Fine upon him, but told him that Court had no power to fine him, but he must compound with Commissioners for that purpose appointed; and directed several Writs of *Distringas* to issue out of that Court, to distrain him to appear as aforesaid: upon which excessive Issues were return'd upon his Lands, amounting to 2000 l. great part whereof he was forc'd to pay. And in like manner those Barons dealt with *Thomas Moyser* Esq; and several others, to the undoing of many of them.

In order to increase the Crown Revenue, the King by Letters Patents 20 January 1631. created several Knights

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Knights and Gentlemen of Quality a Corporation with-  
in *Westminster* and *Middlesex* (several of them known  
Papists, as *Sir Henry Compton*, *Sir Richard Weston*, and  
others) by the name of the Governor, Assistants, and  
Society of Soapmakers, giving them and their Suc-  
cessors power to admit Persons into their Society, and  
to purchase Lands, &c. *Sir Richard Weston* to be the  
first Governor, and all who would not come into their  
Society were prohibited the Trade of Soapboilers: and  
no Soap was to be put to Sale, till the Overseers ap-  
pointed by the Corporation had mark'd it for good.  
They advanc'd 10000 *l.* to the King, and eight  
Pounds *per Tun* was to be paid into the Exche-  
quer.

*Sir Henry Vane* Ambassador to the King of Sweden,  
had in Commission, 1. To go to the King of *Denmark*,  
and endeavour to reconcile him and the King of *Swe-*  
*den*. 2. To move the *Germans* to join with the *Swed-*  
*es*. 3. To make Peace between the Crowns of *Poland* and  
*Sweden*. 4. To enter into a League with the King of  
*Sweden*. But the Ambassador understanding that the  
King of *Sweden*, making use of his Victory at *Leipsick*,  
was gone as far as *Franconia*, and judging it concern'd  
him to make hast, excusing himself by Letter to the  
King of *Denmark*, went forthwith to *Wirtzburg*, and  
on the 29th of *January* had his first Audience of the  
King of *Sweden* at *Frankfort on the Main*. The King  
bid the Ambassador welcome, told him he heard the  
King of *Bohemia* was upon his way to come up to him,  
and ask'd him when he thought he should be here, and  
the Ambassador answering he thought to morrow, the  
King started, and said it could not be; the Ambassador  
replied, he had received such advertisement, and hop'd  
his Majesty would take his Cause in hand, according  
to his Manifesto. The King said he would first make  
an Alliance with the King of *Bohemia*, and would be  
glad the Alliance between him and the King of *Great*  
*Britain* should proceed; and ask'd whether he had  
plenary Power, whether the King of *Great Britain*  
would make the Confederation with him personal, and  
whether he would be content to give Mony and not  
Men. To the two first the Ambassador answer'd af-  
firmatively, and as to Mony in lieu of Men he thought

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Ann. 1621.

an Expedient might be found out for that too, provided his Majesty would undertake the Restitution of the King of *Bohemia*, and not lay down his Arms till it were effected. But the King said he could not do that without having War with *France* and *Bavaria*, there being an Article between *France* and the Catholick League to that purpose; but it should be remitted to a future Treaty between *England* and *France*. The Ambassador answer'd, that that Article, and all others in that Treaty, were to the prejudice of the King of *Bohemia*, and of dangerous consequence to himself; and he thought it not advisable for his Master to make an Alliance with his Majesty of *Sweden*, in hopes of a future and contingent Treaty between *England*, *France*, and *Bavaria*: but if his Majesty would oblige himself to perform the Conditions propos'd, he was ready to begin the Treaty. The King of *Sweden* refus'd to stipulate to make war at present upon *Bavaria*, but said, if the Alliance had been concluded before the arrival of the *French*, he could then have undertaken it. The Ambassador answer'd, that if his Majesty of *Sweden* had demanded reasonable Conditions, the Alliance had been concluded; he besought him to give him leave to commemorate the Proceedings of his Master towards him; his sending the Marquis of *Hamilton* with an Assistance that amus'd the Emperor, and encourag'd the confederate Protestant Princes to unite their Army under his Command; and the Subjects of *Great Britain* had done him great and remarkable Service in these and his former Wars, which ought not to be forgotten. The King of *Sweden* acknowledg'd the King of *Great Britain* had proceeded with him as a Friend, but that King had too long depended upon the *Spanish* Treaty, for nothing was to be expected there but Words: He said *Bavaria* should not escape him, but he was in a fair way to secure the Catholicks, for the Electors of *Triers* and *Cologne* had accepted of the Neutrality, but he had not yet heard of *Bavaria*, nor could say any thing to that, till *Charnassay* or *Horn*, whom he had sent into *France*, were return'd; That he would make him this Proposal, viz. to oblige himself to restore to the King of *Bohemia* what the *Spaniard* held, and treat with *France* and *Bavaria* for what

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what *Bavaria* possesses; which if he would not restore, he would then undertake a War with him, so as the King of *Great Britain* would enter into an Alliance with him against the *Spaniard*, if he should attack him in any of his Dominions. But the Ambassador answer'd, this was a point of so great weight, as he durst not take upon him to make any present Answer. The Result of all was, that upon the King of *Bohemia's* Arrival the Chancellor of the *Swedes* and the Ambassador should enter into a Treaty. In this Audience the King of *Sweden* spake of 12000 men to be allowed by the King of *Great Britain*, and 25000 *l.* a month for the maintenance of them, which he did not insist on, but urg'd the establishing of the *Lutheran* Religion in the *Palatinate*, and the King of *Bohemia's* Countries.

A slight mention was made before of the taking of *Magdeburgh* by *Tilly*; which falling out in the beginning of this present year 1631. should have been inserted there, but being casually omitted, we have here subjoin'd a more ample Relation of it. The City of *Magdeburgh* is one of the antient *Hans Towns* of the Empire, honour'd with an Archbishop's See, and he the Primate of all *Germany*; the People are *Lutherans* of the *Augustan* Confession. The Archbishoprick was then in the hands of a Layman, *Christian William* a Prince of the Electoral House of *Brandenburgh*, his Title is Administrator of the Bishoprick of *Magdeburgh* and *Hall*, and Primate of *Germany*. The Quarrel between the Emperor and him was, that he would not give way to the restoring of Popery and of the Church-lands to the Catholics, for which he was pro-scrib'd by the Emperor, and Forces sent to seize upon his Country. His Subjects (tho they had consented with other *Hans Towns* not to suffer any Imperial Soldiers to be quarter'd upon them, and had rais'd 2000 men for the Defence of the City) durst not assist their Prince, till encourag'd by the King of *Sweden*. Whereupon the Administrator set forth his Declaration, protesting against the wrong done him by the Emperor; and putting himself under the King of *Sweden's* Protection, with him join'd *Francis Charles* Duke of *Saxe Lawenburgh*; and in *November* 1630. the King of *Sweden*

7 Car.

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Ann. 1631.

Magde-  
burgh be-  
sieg'd by  
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Sweden sent the Lord *Faulconbergh* his Marshal and Chamberlain to *Magdeburgh* with 4000 men to be put in Garison, to be added to the 2000 rais'd by the Town. Upon the 12<sup>th</sup> of *April*, *Tilly*, *Papenheim*, *Savelli*, and *Mansfield* came before it, and on the 13<sup>th</sup> begun the Siege; 12 Pieces of Cannon were planted against the Bridg over the *Elb*, and 568 shot made that day, *Tilly* designing to cut off the Communication between the Town and the Starsconce or Toll-house, a piece of Fortification on the other side of the *Elb*: But the Lord *Faulconbergh* planting some Pieces upon the Toll-house, dismounted their Cannon. *Tilly* then gave eight several Assaults on the Town and Toll-house both, but *Faulconbergh* with four whole Cannon double charg'd made them give over: that day near 2000 of the Assailants were slain. *April* 15, *Tilly* bent all his Force against the Toll-house, but in the Assault lost 500 men. *April* 21, *Tilly* gives on again upon the Toll-house, which is deserted by the *Magdeburghers*, the Bridg burnt, the City batter'd from the Toll-house, and the Besieg'd forc'd to burn the New Town, where 2000 Imperialists lodg themselves, and fall to mining and throwing Granados into the City. *May* 7, *Tilly*, *Papenheim* then General of the Ordnance, and Count *Schomberg* Major General, came into the New Town with a great shew of Ladders, as if a Scalado was intended; but the *Magdeburghers* man'd their Bulwarks. *May* 8, *Tilly* summon'd the Town, and they declar'd their willingness to yield, might the Administrator enjoy his Bishoprick, and the Town its Privileges. This being not consented to, another Trumpet was *May* 9. sent into the Town; and towards Evening the Besiegers were perceiv'd to rise with their whole Army (as the Town thought) and to march to *Orterleben* half a mile from thence. *Faulconbergh* (who was upon the Walls all that night) perceiving in the morning no danger of Assault, calls the Citizens together into the Town-house to give answer to the Trumpet; the overwatch'd Soldiers were suffer'd to go and take some sleep, and the Townsmen were gone to Church to thank God for their Deliverance: thus the Walls being empty, the Imperialists led by *Papenheim* ran with Scaling-Ladders on their backs, fill'd up the Ditch, mounted

Taken, and  
the Inhabi-  
tants  
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mounted the Walls in a trice, entred the Town, and fell to killing. *Faulconbergh* beat them back to the very Walls, but a Port being open'd, and the Enemy's Horse let in, he is slain with a Shot, and the Administrator, being hurt in the Thigh and Head, taken. In the mean time a mighty Fire breaks out (how none knew) and it being a very windy day, the Town suddenly became one great Flame, and in twelve hours turn'd to Ashes, except about 100 Houses near the Cathedral, which was also sav'd. 20000 People at least were kill'd, burnt, smother'd, and drowned in the *Elb*; of the last sort were about 6000. *Tilly's Walloons* gave quarter to few, and the *Crebats* never use to give or beg any. Sunday the 15th, *Tilly* caus'd the Cathedral, which was stain'd with Blood, to be new consecrated,

7 Car.

*Ld Faulconbergh slain.*

*Star Chamber Cases Ann. 1631.*

*Pasch. 7 Car.* The Defendant publish'd an *Innotescimus* under the Great Seal, bearing date 16 *Eliz.* containing an Indenture pretended to be dated 9 *Eliz.* But it was not inrol'd, and differ'd from the usual Form; the Indenture being testify'd thus, *Cujus Tenor ut dicitur sequitur in hac verba*; whereas in an *Innotescimus, ut dicitur* comes before *cujus Tenor*: nor could any Warrant be found for passing thereof, nor any account made for it in the Hanaper. The Court, tho they clear'd the Defendant *a poena & culpa*, yet they decreed neither the Defendant nor any claiming under him should ever give it in evidence; but would not damn it, because it was the Evidence also of a third Person no Party to this Suit.

Weston  
Mil. & al.  
vers. Pargi-  
ter arm.

The Defendant Sir *William Norris* telling the Plaintiff (being a Justice of Peace) he had been too precise in examining the Churchwardens about his coming to Church, and the Plaintiff answering he was wrong'd therein, the Defendant gave him the lye, drew his Sword, and struck the Plaintiff twice with it: And the Defendant *Mercer* fram'd two Libels against the Plaintiff, his Wife, and Daughter, one whereof the Defendant *Bryers* publish'd. *Mercer* was committed, fin'd 1000 *l.* bound to his good behaviour for life,

MoorArm:  
vers. Nor-  
ris Mil. &  
al.

*Affaulting  
a Justice of  
Peace, &c.*

to

Ann. 1631.



to be thrown over the Bar, and disabled to practise, to stand on the Pillory at *Westminster* and *Lancaster* Assizes with a Paper on his Head declaring his Offence, and to ask the Plaintiff forgiveness; *Bryers* committed, and fin'd 200 *l.* Sir *William Norris* committed, fin'd 1000 *l.* and to pay the Plaintiff 50 *l.* Damage; *Mercer* to pay the Plaintiff 100 *l.* damage, and *Bryers* 20 *l.* damage; and if *Mercer* not able to pay the 100 *l.* *Bryers* to pay it, and be freed of the 20 *l.*

Easton  
vers. Hirscham  
ser-vient. ad  
legem.  
Undue publishing  
of libellous  
Articles.

Reviling  
Jurors for  
giving a  
Verdict.

Att. Regis  
vers. Ewer  
Arm.

Do. Faulk-  
land D. p.  
of Ireland  
vers. Sa-  
vage mil.  
& al.

The Defendant being a Justice of Peace, at the Sessions pull'd out of his pocket scandalous and libellous Articles against the Plaintiff an Attorney, and in open Court said, *You shall see what a leud Fellow this is, and not fit to speak here,* and then caus'd them to be read publickly. The Plaintiff desir'd a Copy, and to be try'd upon them; but the Defendant would suffer neither, but took the Articles away with him, nor ever took course for his Prosecution, but sent them to Mr. Justice *Harvey*, whom the Plaintiff attended upon a Reference: And a Jury having given a Verdict against the Defendant, he call'd them Fools, and said, if there had been one wise man among them their Verdict would have been otherwise. The Defendant offer'd to prove the Articles; but the Court would not allow of it: and in this case they declar'd the getting Jurors hands to a Note, to impeach a Verdict, was punishable there. The Defendant was committed, and fin'd 200 *l.*

The Defendant at several times call'd the Earl of *Danby* Lord *Danturd*, cheating cozening Lord, base Fellow, said he car'd not a fart of his Arse for him, that he had cozen'd the Country, &c. He was committed, fin'd 1000 *l.* to pay 1000 *l.* damage, bound to his good behaviour for life, and to ask the Earl forgiveness at this Bar, and at *Oxon* Assizes.

*Philip Busben* being accus'd of Treason in *Ireland* for murdering his Wife (Murder being Treason there) the Plaintiff being then Lord Deputy, requir'd the Defendant *Welden* then High Sheriff to secure his Goods till Trial, which he did, and the Defendant Sir *Arthur Savage*, by agreement between him and *Welden*, possess'd himself of *Busben's* Castle; and after his Conviction the Plaintiff empower'd certain Commissioners to inquire of and seize his Lands and Goods: but

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Sir *Arthur* would not deliver the Possession of the Castle, nor would *Welden* deliver the Goods (claiming them as Escheats and Perquisites of his Office) till a second Commission awarded, and then kept 120 of the best Sheep, and deliver'd the like number of others, and converted divers of *Busben's* other Goods to his own use: That Sir *Arthur*, and the Defendant *Busben* (the Son) reported, that the Plaintiff sent the Lord *Sarsfield* to go that Circuit, that *Busben* the Father might be convicted; and *Busben* the Son reported, that the Plaintiff caus'd the Goods to be deliver'd to Sir *Terence Dempsey* one of the Commissioners, as part of his Daughter's Portion, who had marry'd with Sir *Terence's* Grandchild, and produc'd a Paper to that purpose. That *Busben* the Son procur'd a Petition to be presented to the King about the Execution of his Father, then by Sir *Arthur's* advice petition'd the Duke of *Buckingham*, in order to procure a Commission to examine the said suppos'd Practice; and the Duke advising with Sir *Arthur* thereupon, he, contrary to his own Advice, perswaded the Duke rather to write a Letter to the Plaintiff, to cause some Relief to be given to *Busben's* Wife and Children; which was written accordingly, and deliver'd to *Busben*, who kept it, and after the Duke's death open'd it, and annex'd it to a scandalous Petition presented to the House of Commons, to the Plaintiff's dishonor. All three were committed, Sir *Arthur* fin'd 2000 *l.* and to pay the Plaintiff 3000 *l.* damage; *Busben* fin'd 500 *l.* and he and Sir *Arthur* at this Bar to ask the Plaintiff forgiveness; Sir *Arthur* to do the like at the Council-Board in *Ireland*, and *Busben* at *Kildare* Assizes; *Welden* fin'd 1000 *l.*

*Slander of the Ld Dep. of Ireland.*

*Trin. 7 Car.* There having been Suits between the Plaintiff and Defendants, about some Lands belonging to the School of *Wootton Underedge* in *Glocestershire*, and the same being decreed for the Plaintiff, the Defendant *Crokey* caus'd a great number of libellous Books reflecting on the Plaintiff, and the Courts of Justice where their Suits had depended, to be printed, and many of them presented to the Lords and others in Parliament, and others publish'd elsewhere; and the Defendant *Wright* publish'd several of them. The Defendants were both committed; *Crokey* fin'd 200 *l.*

*Wright*

*Smith ver. Crokey & al. 109. 12. Contriving and publishing libellous Books.*



*Ann. 1631.* Wright 100 l. the Decree to be read at the Assizes to clear *Smith's* Reputation, *Crokey* there to ask him forgiveness, and the Books there burnt.

Water-  
house verſ.  
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The Plaintiff by his Bill charg'd the Defendant with ſeveral Forgeries and other foul Offences, whereof he could make no proof; and the Defendant clear'd himſelf to the ſatisfaction of the Court. The Plaintiff was fin'd 500 l. to pay the Defendant 500 l. damage, to make his Submission to him in this Court, and at York Aſſizes, the like at the Block at *Halliſax*.

Att. Regis  
ore tenus  
verſ. Ar-  
cher.  
Hoarding  
of Corn.

The Defendant, contrary to his Maſteſty's Ordinances and Proclamation, and the Directions of the Council, engroſs'd much Seed, Wheat, and Rye out of the Market, he having about eight Quarters of Wheat, and ſixty one of Rye of his own growing that year, and but ſix in Family, bringing none to Market, till about the end of *July*, when preſented by the Grand Jury in *Effex*, for that the Overſeers of the Poor had for their Relief bought of him five Quarters of Rye at 7 s. 3 d. the Buſhel, but he refus'd to deliver it under 9 s. when he had thirty Quarters of Wheat and Rye in his Houſe. He was fin'd 100 Marks, and 33 l. 6 s. 8 d. to be divided among the Poor, and to ſtand on the Pillory with a Paper on his head at *West-minſter*, *Newgate* Market, *Leadenhall* Market, and *Chelmsford* in *Effex*.

Morgan  
Arm. verſ.  
Welch &  
al.  
Riotous  
Reſcue.

The Defendant being arreſted on an Attachment out of Chancery, gave the Bailiff a blow on the Face, and he with the three other Defendants reſcued himſelf, and threaten'd to cut off the Bailiff's Legs. The Defendants were committed, *Welch* fin'd 100 l. the other three 20 l. a-piece.

Ferreby &  
al. verſus  
Houlding  
& al. &  
è contra.  
Gross Riots.

The Defendants to *Ferreby's* Bill riotouſly beat the Plaintiff and one *Mullan*, and gave them ſeveral Wounds: And *Houlding* the Plaintiff in the other Cauſe was ſtruck down, and a piece of his Cheek bitten off, and had ſeveral Blows with a drawn Sword. And for theſe Riots committed at the ſame time, four of the Defendants in the firſt Cauſe were committed, two fin'd 50 l. a-piece, one 40 l. and the other whole Cheek was bitten but 20 l. Two of the Defendants in the other Cauſe were committed, and fin'd 40 l. a-piece.

Witnesses

Witnesses having been examin'd in the Country in a Cause in this Court, wherein *Watson* and his Wife were Plaintiffs against the now Plaintiff *Allen*; the now Defendant *Watson*, on pretence of examining the Copies, got the Record to his Attorney's Chamber, and ras'd, interlin'd, and alter'd the Depositions, and made such of them affirmative for him, which were before negative against him. He was committed, never to be enlarg'd without a special Pardon; and if ever, then to be bound to his good Behaviour during life, fin'd 1000 l. to be set on the Pillory at *Westminster*, and branded on the Forehead with the Letter F. and likewise on the Pillory at *Stafford*, and the Cause wherein the Depositions were falsify'd dismiss'd.

*Mich. 7 Car.* The Relator having undertaken the draining of several Grounds and Commons in the Counties of *Lincoln*, *Nottingham*, and *York*, and having a Grant of part thereof from his Majesty at a Fee-farm Rent; the Defendants and others several times beat the Workmen, threaten'd to kill them if they would not leave their Work, threw them into the River, and kept them under with long Poles; and oftentimes, upon the ringing of a Bell, came thither, fill'd up the Drains, burnt the Tools and Materials, and set up Poles in form of Gallows to terrify the Workmen, threaten'd to break their Arms and Legs, hurt many of them, made others flee away, and pursued them; whereby the Relator was damaged 2000 l. Three of the Defendants were fin'd 1000 l. a-piece, one 500 l. and nine others 500 Marks a-piece; all of them to be committed, bound to their good behaviour, to acknowledg their Offences at the Assizes next after their Apprehension, and pay 2000 Marks damage to the Relator.

The Defendant *Waddington* Vicar of *Chesterfield* claiming the Tithes there, which the Plaintiff enjoyed as Lessee of the Dean of *Lincoln*, lets the same for three years to the Defendant *Sir Francis Fuliam* a powerful Person there, at the Rent of 20 l. per annum; tho *Waddington* was never in possession, nor was any Rent in truth to be paid (which the Court declar'd Champerty) *Sir Francis Fuliam's* Servants taking part of the Tithes, the Plaintiff brought several Actions, the

Charges

7 Car.  
Allen vers.  
Watson.  
Falsifying  
Records of  
this Court.

Att. Regis  
per rel.  
Vermuyden vers.  
Forkesey  
& al.  
Riotous de-  
stroying  
Drain-  
works in  
*Lincoln-*  
*shire, &c.*

Leech M.  
vers. Wad-  
dington.  
Cler. & al.

Champerty  
and Main-  
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Witnesses

*Ann. 1631.* Charges whereof Sir Francis did bear; and tho  
 ~~~~~ Verdict pass'd against Waddington's Title, yet the  
 other Defendants by the abetment of Sir Francis and
 Taking Waddington riotously beat the Plaintiff's Workmen,
 a way of took away the Tithes often from his Servants, trod
 Tithe-Corn. part under foot, threw part into the Water, cry'd, *A*
Fuliamb, A Fuliamb; and Waddington's Servant and
 Horse carried away some of it for *Fuliamb*. They
 were all committed, Sir Francis fin'd 500 l. Wadding
 ton 50 l. two of the Rioters 200 Marks a-piece, and
 two others 100 l. a-piece.

Dalton *Eleanor Beck* publish'd to several that the Plaintiff
 Cler. verfi. had got her with Child, and nam'd the Time and
 Beck & al. Place; and *Richard Beck* her Husband said his Wife's
 Libellous Report was true, altho they now swear they believe
 Words a- him to be innocent; and the Defendant *Heyton* report-
 gainst a ed, that the Plaintiff liv'd in adultery with the Ped-
 Clergyman. lar's Wife, and that a Priest had got a Pedlar's Wife
 with Child, meaning the Plaintiff and Defendant. *Ele-*
anor Beck and his Wife were committed to the House
 of Correction, to be set at work three Months, to be
 well whipped, and fin'd 40 l. a-piece, *Heyton* com-
 mitted and fin'd 100 Marks; all to ask the Plaintiff
 Forgiveness in his Parish-Church and at the Assizes, and
 to pay him 50 l. Damage.

Att. Reg. *Jane Cockaine*, under eleven years of Age, having
 ver. Rogers 300 l. per annum descended to her from her Father
 & al. and being the King's Ward; the Defendant *Mar-*
Partridge, privately admitted the Defendant *Rogers*
 (a Person of mean Estate) by night into her Mother's
 House, took the said Ward out of her Bed, and
 brought her to *Rogers*, and got her to sign a Contract
 with *Rogers*. Then the Defendants procur'd one *Dun-*
sterfeild to swear she was Sixteen, and had her Mo-
 ther's Consent to marry *Rogers*, and upon that pro-
 cur'd a Licence; but the Marriage being prevented
 they procur'd her again to use words of contracting
 her self with *Rogers*. They were committed, *Pa-*
tridge, in regard of her peniteney, fin'd but 40
Rogers fin'd 2000 l. and not to be enlarg'd, till the
 Ward was by sentence in the Ecclesiastical Court free
 of the Contract.

Contract of
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The Defendant *Owen Ap Richard*, contrary to his Majesty's Proclamation and Letters Patents, made so many counterfeit Copper Farthings as came to five Pounds, and vented them; and the Defendant *Hammond* lent other Counterfeiters of Farthings money to buy Tools for that purpose, provided them a Workhouse, and bought them Copper, and for every Twenty Shillings Sterling, they allow'd him Twenty five Shillings in Farthings, which he vented, knowing them to be Counterfeit. They were committed, fin'd 500*l.* a-piece, set on the Pillory in *Cheapside*, then to *Bridewell* to be kept to work, until enlarg'd by his Majesty under his Hand and Seal.

The Defendant *Taylor* bought 20 Quarters of Barley, but brought no Corn of his own that year to the Market, nor sold any, altho he had that year of his own 100 Quarters of Barley, 10 of Wheat, and 10 of Rye, and had but 15 in Family. And the six Defendants were guilty of the like Offences, saving that some of them sold divers quantities out of the Markets, which yet was contrary to the King's Proclamation, and the Book of Orders for serving the Markets with Corn. They were committed, fin'd 100*l.* a-piece, and to acknowledg their Offences at *Norfolk Assizes*; but the Court inflicted no ignominious Punishment, for that they had a licence from the Justices to dispose of their Corn as they pleas'd, after their Poor were provided for: This did extenuate, tho the Court declar'd, the Justices ought not to have granted such licence.

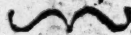
The Defendant *Carrier* pretending to be Barmaster wherewith he had nothing to do) appointed Deputy Barmasters within the Wapentake of *Wirkesworth*, who by his and his Wife's abetment forcibly took Guister Ore from divers of the Miners, alledging it to be their due; and *Carrier* said they should not meddle with their Ore, unless they would pay Guister Ore. And the Defendants in a riotous manner came to *Buxton's Cove*, and would have took away six Load of Ore, and being resisted, *Carrier* threaten'd to set 'em on the Stocks; and his Wife drawing a long Knife, said, she would take a shorter course with them, and she kill'd one of them it was but a hanging matter;

7 Car.
Att. Reg.
ore tenus
vers. Ham-
mond & al.
Counter-
feiting
false Tok-
ens.

Att. Reg.
ore tenus
vers. Tay-
lor & al.
Hoarders
of Corn.

Att. Reg.
vers. Car-
rier Cler.
& al.
Riotous
taking the
Guister Ore.

Ann. 1631.



Att. Reg.
ver. Green-
vile Bar.

Slander of
the Earl of
Suffolk.

Bacon Ar.
ver. Carter
& al.

Killing the
King's Deer
in New-
Forest.

Bayneham
versus
Grymes &
al.

Deceitful
mixture of
Copper,
Purl and
Oes in Gold
and Silver
Hatbands.

Ann. 1632.

The K. of
Sweden
proposes
unreasona-
ble Terms
to the King.

and this was done *pendente lite* in the Dutchy. The Defendants were all committed, *Carrier* fin'd 500 l. his Wife 100 l. *Noton* 100 Marks, *Wright* 50 l. and two others 20 l. a piece; *Carrier* made incapable to be Barmaister, or to execute any Office of Temporal Judicature, and refer'd to the Lord Keeper whether he be fit to be a Justice of Peace any longer.

Hill. 7 Car. The Defendant affirm'd to one *Taylor*, that the Earl of *Suffolk* was a base Lord, and had dealt basely with him, and bid *Taylor* tell him so; and afterwards told one *Brabant* what he had said to *Taylor*. The Defendant was committed, fin'd 4000 l. to make his Submission to the Earl in this Court, and to pay him 4000 l. Damages.

The Defendants *Carter* and *Nicholas* by night kill'd several of his Majesty's Deer in the *New Forest*, within the Plaintiff's Walk, and carry'd them away. They were committed to the *Fleet*, fin'd 100 l. a-piece, and when they have been a while in the *Fleet*, to be sent into the Country to the House of Correction, till they give security to the Justices in Eyre, to be of good Behaviour ever after toward his Majesty and his Game there. The Defendant *Whitmershe* (whom the Court could not fine, because but one Witness against him) to be bound to his good Behaviour as the others.

The Defendant *Grymes* made Hatbands of Silver, intermingl'd with Copper-thread; and he and the other Defendants made Gold and Silver Hatbands, and intermix'd therein Copper, Purl and Oes, and sold the Hatbands for all perfect Gold and Silver. They were committed, *Grymes* fin'd 50 l. *Wood* and *Knight* 20 l. a-piece; all to be bound with good Sureties not to offend so any more, and to make a publick acknowledgment of their Offences before the Lord Mayor and Liveryies at *Guildhall*. Note, *Knight* was fin'd for matter not charg'd in the Bill, but confess'd by him.

There were great rubs in the Treaty between *England* and *Sweden*: The main thing press'd by the *English* Ambassador was, That the King of *Sweden* should give the Marquiss of *Hamilton* an Army, with which and the Forces and Monys to be sent from *England*, should fall in on the *Palatinate*: But that King propos'd unreasonable Terms, in reference to the King

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Bohemia, almost as severe as those which had been formerly propos'd by the Emperor; so that the Marquis perceiv'd *Gustavus* began to reckon all *Germany* as his Conquest, and that he might give it what Laws he pleas'd: and he would neither give him a Commission to levy a new Army, nor pay him what he had laid out in his Service; his Chancellor telling the Marquis, they knew he had spent none of his own Money, having gotten 100000 *l.* of his Master. The Marquis reply'd, tho' that were true, his Master and he must reckon, but that must not be set to their account. In *April*, the Marquis desir'd some order should be taken with the remainders of his Army till he got a new one, so they were reduc'd into two Regiments, one of *English*, the other of *Scots*, and were put in Duke *Weimar's* Army. The Marquis having acquainted the King how he was treated in *Germany*, his Majesty in his Letter to him of the last of *Apr.* 1632, told him, He did well to acknowledg to the Chancellor of *Sweden* his Allegation concerning the 100000 *l.* suppos'd to be had from his Majesty for his Master's Service; that so much as he reply'd thereupon was good, but wishes he had added, that if the Chancellor's Master would not account to him (the Marquis) for what was given him, yet it was reason his Master should thank him who gave it, and suffer him to put it on his account as part of the Assistance given him. All this Summer the Marquis follow'd the King of *Sweden* as a *Voluntier*, but he found that King so jealous of him, that he was not to expect any Trust in or near the *Palatinate*. At length the Marquis being weary of this delay, wrote to his Majesty to receive his positive Commands what to do: His Majesty's Answer was to this effect; That to stay were very honourable, if he had an Employment; but having none, nor being likely to have any, it were Dulness, not Patience, to stay; that he had commanded his Ambassador Sir *Henry Vane* to propose a new Employment for him, that he may be sent into the *Palatinate* with so many Men as his Majesty's Contribution will maintain; if it may be done, they promise to put the *Lower Palatinate* into his (the King's) hands; this being deny'd, the best way is to find some civil excuse to come home.

Hamilton's
Army re-
duc'd to 2
Regiments.
King's Let-
ter to him.

His second
Letter.

Ann. 1632.

Mr. Barnard questioned in the High Commission Court for his Sermon.

He is ordered to make a recantation.

Mr. Nathaniel Barnard, Lecturer of St. Sepulchers London, having in his Sermon at St. Mary's in Cambridge, deliver'd some Passages against a Possibility of Salvation in the Faith and Worship of the Church of Rome, as it was decreed in the Council of Trent, and against the introducing of Pelagian Errors and Romish Superstition into our Church (his Text being 1 Sam. 4. 21. *The Glory is departed from Israel*) was censur'd in the High Commission Court, and order'd to make a Recantation to this effect: 1. That whereas he affirm'd the Preaching of the Gospel was the means by which God manifesteth his omnipotent and irresistible Power, in the Conversion and Salvation of all those who from Eternity were ordain'd hereto by God's absolute and immutable Decree; he did acknowledg, that contrary to his Majesty's Declaration, he went beyond the meaning of Rom. 1. 16. (the place quoted by him) and of the Articles of Religion, to maintain some of the differences in the said Declaration mention'd, tho no occasion was offer'd him from his Text, for which he is heartily sorry. 2. Whereas he had this Passage, *They who go about to deprive a Nation of any of God's Ordinances, go about to make that Nation base and inglorious, and are Traitors thereunto; for Treason is not confin'd to the Royal Blood, but may be committed against a Church and a Nation, which last is the worst of the two, by how much the end is better than the means, and the whole than a part; what may we then account those (if any such be) who endeavour to abate the Glory of our Israel, by bringing in their Pelagian Errors, and the Superstitions of Rome, as High Altars, Crucifixes, and Bowing to them, in plain English worshipping them?* He acknowledges many erroneous and dangerous Assertions and Consequences unfit to be express'd, may be infer'd out of those words, which he recants as rashly and inconsiderately utter'd, undutiful to his Majesty and scandalous to the Church of England. 3. Whereas he had this Passage, *By God's Ordinances he understood chiefly Sacraments and Prayer in their Purity, not adulterated with the Superstitions of Men, for then they cease to be God's Ordinances.* He desires to be understood, not that he held all human Inventions to be superstitious, but to exclude all human Inventions which

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may hinder the Preservation of the Doctrine and Discipline of the Church of England in Purity.

8 Car. 1.

4. Whereas divers other Passages were conceiv'd by some to be Aspersions upon our Church, and some principal Members of it, and as it were to move to take up Arms for redress, tho' afterwards qualify'd with a Prayer for their Conversion or Destruction; He professeth, he knoweth no cause why any should inveigh against any in our Church, and is sorry he gave cause to be so understood, and craves pardon for it. But Mr. Barnard refusing this Recantation, was fin'd 1000 l. suspended his Ministry, condemn'd in Costs, and committed.

Which refusing to do he is censur'd.

By the Intercession of Bishop Laud, Walter Curl was made Bishop of Winchester, Robert Wright of Coventry and Litchfield, Augustine Lindsey of Peterborough, and Pierce of Bath and Wells.

Four Bps advanc'd.

June 15. Mr. Francis Windebank was sworn Secretary of State, which Place, the Bishop of London in his Diary saith, he obtain'd for him of his gracious Master.

Mr. Windebank sworn Secretary of State.

His Majesty taking notice of the great resort of the Nobility, Gentry and others of the abler sort with their Families to London and Westminster, and Places adjoining; who while they resided in the Country, serv'd the King and Government, whereby the Realm was defended, and the meaner sort guided and reliev'd; whereas now they are useless, and spend their Money in excess of Apparel and other Vanities: By his Proclamation 20 Junii, he commanded those of them that have Places of Residence in other parts, to resort thither within 40 days, except Privy Counsellors, or those bound to daily attendance on the King, Queen or their Children.

King commands the Nobility and Gentry to reside in the Country.

June 28. His Majesty by his Proclamation reciting his Letters Patents afore said, of the 20th of January last, for incorporating the Soap-makers of Westminster and Middlesex; forbid the said Society to use any other Oil than Olive Oil and Rape Oil, and commanded that none do put to Sale any Soap, Pot-ashes, &c. before it be essay'd, try'd and mark'd by the Deputies of the said Society.

Proclamation for the wellmaking of Soap.

Ann. 1632.

Another
concerning
the Post-
master of
England
for foreign
Parts.

Informati-
on against
London
for the
Death of
Dr. Lamb.

City fined.

Words
charged on
the E. of
Strafford
at York
Assizes.

July 19. By another Proclamation his Majesty taking notice of the erection of a new Office by K. James, call'd, *The Office of the Postmaster of England for Foreign Parts*, and that *Matthew de Qvester* was first appointed to execute that Imployment, and after him *William Frizel* and *Thomas Withering*, did at the prayer of the *English Merchants* appropriate the said Office to the said *Frizel* and *Withering*, with prohibition to all others to intermeddle therewith.

An Information was exhibited in the *King's Bench* against the Mayor and Commonalty of *London* for the murder of *Dr. Lamb*, commonly so call'd, the manner whereof is related in the first Volume; no Inquisition was ever taken of it, nor any Malefactor discover'd. The Information was at the Common Law, and not upon the Statute of 28 E. 3. or 4 H. 4. and was to this effect, That *London* is a walled City, and recites the Statute of 2 E. 4. that the Mayor is a Justice of Peace, the Sheriffs and Coroners made among themselves; that by Law they ought to suppress Riots and Tumults. That *Janii 4 Car.* in the day time, one *John Lamb* was slain in a Tumult, none of the Offenderstaken, nor any Person known or indicted, *vid.* 3 E. 3. *Coron.* 299. 22 E. 3. *Coron.* 238. 8 E. 2. *Coron.* 425. *Stamf. Fo.* 33. *Cok. lib.* 7. *Fo.* 7. 3 H. 7. 15. *Dyer* 210. And *Noy* Attorney General shew'd a Record *Mich.* 18. E. 3. *Rot.* 132. of an Indictment of a Town in *Devonshire*, for suffering an Assembly to hold Assizes in mockery of Justice. And 21 H. 6. a Presentment against the Town of *Normich* for a Riot, where one *Gladman* took upon him to be King, and went with a Crown of Paper to the Priory of *Normich*, &c. and their Liberties were seiz'd. The City submitted to the Court, and was fin'd 1500 Marks.

Thomas Lord Viscount *Wentworth*, Lord President of the Council in the North, let fall some words upon the Bench at the Assizes at *York* in August this year at which the Gentlemen of that Country took great Exception, and the same were afterwards laid to his Charge as a Crime, which with the Lord *Wentworth's* defence are here inserted, tho his Defence was some years afterwards. The words were prov'd by Sir *Thomas Leyton*, then Sheriff of *Yorkshire*, and another

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and were to this effect : That some would not be satisfy'd but by Law, but they should find that the King's little finger should be heavier than the Loins of the Law. This was confirm'd in substance by another Witness, whose Examination was read, himself being dead. The Lord *Wentworth* (then Earl of *Strafford*) answer'd, that the Words said by him were quite contrary, viz. The little finger of the Law is heavier than the King's Loins : That there came in that year Levies for divers great sums of Money for issues in the Knighthood Business, on some that had compounded and paid in their Money to him the Defendant (then Receiver) who had paid it into the *Exchequer*. These Issues being rigorously levied by Sir *Thomas Leyton* then Sheriff, the Defendant told him how the men were injur'd, and desir'd him to return their Money again : And to give satisfaction to the Country, the Defendant told them, the Commission for Knighthood was a Commission of Grace, and their compounding with the King an Ease, and much easier than a Proceeding at Law, where the very Issues were three or four times more than they had compounded for ; and this was the occasion of his saying, The little finger of the Law was heavier than the King's Loins. He excepted against Sir *Thomas Leyton*, who hath such an Infirmary in his Hearing, that he could not possibly hear the Defendant from the Bench, to the place where he sat as High-Sheriff. He produc'd two Witnesses, to prove the Words were as the Defendant repeats them, but one was only a hear-say Witness from another. It was reply'd to the Defendant, and Sir *Thomas* himself testified, that he had his Hearing till about *Christmas* last ; two other Witnesses were then produc'd, who testified the Words to be spoken as they are charg'd. My Lord said, that if they had been spoken by him as they are laid, they are not Treason within the Statute.

8 Car.

His Defence.

Reply.

Several Merchants and others having hoarded up Corn to enhance the Price thereof, and yet false Rumors spread of great Transportation of Corn licens'd by Authority ; the King by his Proclamation, *Sept. 30.* declar'd the said Rumors to be false and scandalous, and prohibited for one year the Transportation of any Corn or Grain.

Proclamation to forbid Transportation of Corn.

Ann. 1622.

A Com-
plaint a-
gainst a
Judg for
an errone-
ous Opinion
about set-
ting Prices
upon Corn.

Counter-
feiting
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ally affix'd
to Colches-
ter Bayes.

The Statute of *H. 8.* appointing Rates to be set upon Victuals, some Persons designing to bring a Charge upon the Subject, and to increase the King's Revenue, surmis'd that Corn was within that Statute, whereby great Gain would accrue to his Majesty, by granting Licences and Dispensations to sell Corn at other Prices; and Mr. Noy Attorney General, being sent by his Majesty to the Judges to know their Opinions therein, Sir Robert Berkley, then one of the Judges of the King's Bench, deliver'd his Opinion, That Corn was such Victual as was intended to have the Price rated; which was afterwards declar'd by Parliament to be contrary to Law, to the plain sense and meaning of the Statute, and to that Judg's own knowledg; and for this (among other things) he was afterwards impeach'd in Parliament.

One Thomas Jupp a Clothworker of London, being 12 Octob. brought to the Bar of the Court of Star-chamber, his Examinations before Mr. Noy the Attorney General were read, and were to this effect: That in July last he bought several Pieces of Bayes of Bocking making, for one Goddard (but for whom else he refuseth to declare) and put Seals to them, like the Seals put upon Colchester Bayes, which are somewhat dearer, and sell better beyond the Seas than Bocking Bayes; that the iron Stamps wherewith he seal'd them, were some of them graven in Foster-lane, and others of them deliver'd to him by one Thomas Downes then in Ireland, and that the Buyers do commonly buy Bayes for Colchester Bayes, without further enquiry than view of the Seal. And the said Jupp being shew'd two pieces of right Colchester Bayes, whereof one had the whole Seal and was not faulty; and the other mark'd as faulty, by cutting off a Piece and fixing the Seal at the Angle, which yet (he confess'd) is better than the Bocking Bayes, which he seal'd with the whole Seal: He said, he had often made the faulty Bayes have the whole Seal, by cutting off the Puckle of the Bay at the Angle and drawing it, and fixing that Seal in another place, so as in view it is seal'd with the whole Seal; and that he had so done a hundred and a hundred times for Merchants. Whereupon the Court taking into consideration the many Laws provided for the true draping of

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Wool, and for searching, measuring, marking, affixing Seals of divers Places, and the publick Seals of the Aulnager unto the Cloth, and that the Town of Colchester and Parts adjacent receive a great part of their sustenance by making of Baves; that such of them as are fully wrought, are seal'd with a Seal, attesting their Goodness; and if upon search any prove not so good, they are mark'd for such, and the Buyers rely altogether upon the Seal alone; and that this Offence of the said *Thomas Jupp* is a false Cozenage, and will discourage the Buyers to rely any longer upon the Credit of the Seal: The said *Thomas Jupp* was committed during the King's Pleasure, not to be enlarg'd till he discovers the Merchants and others for whom he practis'd such Deceit; when enlarg'd to be bound to his good Behaviour, fin'd 1000 l. to be liable to further Punishment to compel him to make such Discovery: to stand upon the Pillory several Market days in Cheap-side, and at Cornhil Exchange, Blackwell-Hall, Bocking and Colchester, with a Paper on his Head, the Decree to be there read, and printed Copies set upon Posts and eminent Places near the Pillory, there to remain to deter others. And whoever shall discover the Merchants or others, who have set him or any other Clothworker at work to practise this Deceit, they shall have half the Fines which this Court shall impose on them; and if the Clothworker shall discover his Procurers and Encouragers, he shall receive the Mercy and Favour of this Court.

20 Decemb. The King issued out a Proclamation, declaring, That the ordering of Coin and its Value is part of his Regality, and the making and allowing of Weights and Counterpoises of current Mony is proper to him; that Complaints being made, that the Goldweights, and Beams and Ballances for counterpoising Gold are not equal and just; he hath granted to Sir *Thomas Ailesbury* the sole making and putting to sale these Gold Weights, order'd to be of a round and circular form, prohibiting all others to make them on pain of being proceeded against in the Star-chamber or elsewhere.

At this time there was such plenty of Gold and scarcity of Silver, that they who brought their Cattel to Smithfield,

8. Car.

Decree of
Star-
chamber.Proclama-
tion con-
cerning Gold
Weights.Plenty of
Gold.

Ann. 1632.



*Feoffees
for Impro-
priations
question'd.*

*Informa-
tion.*

Smithfield, would make their Bargain to be paid in Silver, and Two pence or more was ordinarily given in exchange of a Twenty-shilling piece full weight, for Twenty Shillings in Silver; and most People carried gold Stales in their Pocket.

Land Bishop of London, having projected the Overthrow of the Feoffees for buying in Impropropriations, as the main Instruments of the *Puritan Faction* to undo the Church, an Information was brought in the *Exchequer* by Mr. *Noy* Attorney General against them, being 16 in number, to this effect: That the Defendants to procure into their hands divers Mannors, Lands, Tythes, Sums of Mony, &c. which well-dispos'd People should give to the endowment of perpetual Vicars having cure of Souls, and other charitable uses, did erect themselves into a Body Corporate, call'd sometimes by the name of the *Collectors of St. Antholins*, held Assemblies, made Ordinances, appointed Registers and Actuaries, and have gotten sums of Mony into their hands, wherewith they have purchas'd Rectories, Tythes, Prebendaries, Lands and Tenements, and had not imployed the same as intended by the Givers, and as by Law they ought: That it appertains to his Majesty's care that such Donations be rightly distributed, and this Court ought to have an account thereof. And he pray'd a Discovery of what had come to their hands, how they had distributed it, and what Evidences and Registers remain'd in their keeping.

*Defendants
Answer.*

*Information
and Answer.*

The Defendants answer'd, They believ'd Impropropriations not employ'd for the maintenance of Preachers, is a great damage to the Church, and the purchasing thereof for Divine Service and Preaching a pious Work, and that they might lawfully confer how to raise Mony for that end. That for the Estates and Uses, for which the Lands, &c. were convey'd to them, they refer'd to the Deeds. That the Donors gave their Monys towards the buying of Impropropriations, maintenance of Preachers, and such other good uses, and not for perpetual Vicars; and they had not converted the Mony to their own uses, nor had made themselves a Body Corporate, nor presented any but who were conformable and approv'd by the Ordinary.

Here

Hereupon the Books and Evidences being brought into Court, upon reading them and the Answer, and hearing the Cause debated by Counsel, the Court declar'd, That the Defendants had usurp'd upon the King's Regality, by making themselves a Society, as if incorporated, and making Ordinances in Perpetuity: That four of them being in the Order of Priesthood, four Common Lawyers, and the rest Citizens of London, if any of them should die or be remov'd, they were to elect one into his place of the same Condition, and those they prefer are to be bound by certain Conditions: They chose a Treasurer, Secretary, Auditor, and a common Servant of their Livery, and inflicted Mults for not meeting at their Assemblies: That they never restor'd one Impropriation to the Church, but kept them in their own hands, and dispos'd of some of the Profits to Lecturers and Ministers as pleas'd them, and with other part bought Advowsons, and nominations of Lecturers and School-masters, which was not the intent of those that gave the Mony: That the Defendants Proceedings are against the Laws, and tended to the drawing to themselves the dependency of the whole Clergy, and introducing dangerous Novelties: That his Majesty intending to question them in the Star-chamber, this Court did forbear to inflict any Punishments; but decreed, that the Defendants should hold no more Assemblies, nor make any Orders, nor any Alienations of what they have purchas'd, it being his Majesty's Pleasure that the same shall be employ'd for the good of the Church, and the maintenance of conformable Preachers: That Commissioners shall inquire of all Rectories, Tythes, Impropriations, Leases and Sums of Mony for purchasing Impropriations, and the Profits shall be confer'd by his Majesty upon perpetual Incumbents. And when a Church becomes void, the King shall present, and Schoolmasters shall be plac'd by his Nomination; and the Defendants shall account for all Receipts. And the King refer'd it to several Bishops and other Lords, to consider whether a criminal Process should be made against the Feoffees.

An Information was exhibited in the Star-chamber against *Henry Sherfield Esq;* a Benchler of *Lincolns Inn,*

8 Car.

Judgment
of the
Court.

Ann. 1632.
 Information
 against
 H. Sher-
 field Esq;
 for break-
 ing a paint-
 ed Glas-
 window.

His De-
 fence.

Inn, and Recorder of *Sarum*, and others, to this effect: That no private Person ought to alter or innovate any thing in Churches or Chappels, or in the Fabrick or Ornaments thereof, without licence from his Majesty or the Bishop, much less deface or diminish any part against their Direction; but the Defendant *Sherfield*, dwelling in *St. Edmond's* Parish in *New Sarum*, being ill-affected to the Discipline of the Church of *England*, and encouraging the Opposers thereof, and the other Defendants of the same Opinion and Practice, about *January* 1629. did riotously and profanely break down a fair and costly Glas-window in the said Church, containing the History of the Creation of the World, which had stood there Hundreds of Years, and was a great Ornament to the Church; notwithstanding the Bishop of *Sarum* wrote a Letter to Mr. *Sherfield* to forbear the same, whereby other wicked and schismatical Persons were animated to use the like violent and outrageous Courses. Mr. *Sherfield* answer'd, That the Church of *St. Edmond* was about the Reign of *H. 3.* ordain'd a Collegiate Church, to consist of a Provost and 13 Priests, who dwelt in a College-House adjoining, and celebrated Masses and Divine Offices to the Parishioners of *St. Edmond's* Parish; which College and Collegiate Church, with the Possessions thereof, was by Act of Parliament vested in King *H. 8.* And King *James*, Anno 7. granted the Church and part of the possessions of the College to *Anthony Gooch* and *William Lloyd*, and their Heirs; from whom the same by mean Conveyances came to certain Trustees and their Heirs, for the behoof of the Parishioners for ever; which Trustees are seiz'd of the said Church as of a Lay-fee, the same having been a Lay-fee ever since it came to the Crown, and exempted from the Jurisdiction of the Bishop, and the Defendants without his licence had power to take down the Glas of the Window: That by Order of the Parishioners in the Vestry, the Steeple had been taken down and part of the Wall, to set a Glas Window in the room; the Glas of other Windows taken down to set up new, the Reading-place remov'd, the Pulpit pull'd down and a new one set up, and all this without licence from the King or Bishop; and in the Vestry it was agreed the

effect: the Defendant might take down the Glass in the Information: That it was neither fair nor costly, but of very rude Work, and none of the fair Windows; and the Painting did not cost above forty shillings: That it was a false and impious Description of the Creation of the World: To express God the Father, are painted divers little old Men barefooted and in long blew Coats, and at every of the six days work such a little old Man was plac'd, with the joining of some created thing to denote what was made on that day. At the third day's work the Sun and Moon were painted, tho created the fourth day; and there in that old man's hand, representing God the Father, was plac'd a Carpenter's Compass, as if he had been fixing the Proportion of the Sun. At the fourth day's work were plac'd painted Fowls of the Air, tho created on the fifth day. At the fifth day's work was painted a naked Man lying asleep, and a naked Woman coming out of his Side; whereas Man was created the sixth day, nor did the Woman grow out of the Man's Side. For the seventh Day the little old Man was painted sitting, to represent God's Rest. That it's unlawful to frame any Similitude of God the Father, appears by the Scriptures, the Canons of several Councils, the Decrees of Christian Emperors, the Writings of the Doctors and Fathers of the Church, the Writers of our Church since the Reformation, particularly of the now Bishop of *Sarum* on the Epistle to the *Colossians*, pag. 97, 98. by King *James* his Premonition, and the Book of Homilies; and Queen *Elizabeth* by her Injunctions *Anno* 1. grounded upon an Act of Parliament of that Year, and still in force, commanded all that had Cure of Souls to instruct their Parishioners to destroy all the Pictures and Monuments of Idolatry and Superstition in Walls, Glass Windows, or elsewhere; and it is to be inquir'd of in the Visitations, whether they were removed, it being lawful to remove them by the Canons of 13 *Eliz.* And as to these Resemblances of God in the Glass Window in question, there was a report that some ignorant Persons had bowed before them. He denies he is affected to the Discipline of the Church of *England*, or hath encourag'd any to oppose the Government thereof

Ann. 1622.



Bp Laud's
Defence of
a Picture
of God the
Father.

thereof under the Bishops; Denies the Bishop of Sarum admonish'd him by Letter or otherwise not to put the Agreement of the Vestry in execution.

At the hearing of the Cause, *Laud* Bishop of London speaking in favor of the Painter, mention'd a place in Scripture, where God is called the Antient of Days, which might make the Painter mistake: But *Edward* Earl of Dorset replied, that thereby was meant God from Eternity, and not God to be pictur'd as an old Man, creating the World with a Pair of Compasses. By the Decree made in this Cause, it seems Mr. *Sherfield* got into the Church, made fast the Doors, and (by colour of an Order of the Vestry that the Windows should be taken down, and he to glaze it again at his own charge) brake divers holes in the said painted Window with his Staff, without acquainting the Bishop or his Chancellor therewith, and with neglect of Episcopal Authority. Mr. *Sherfield* was committed, fin'd 500 l. to be remov'd from his Recordership, and to acknowledg his Offence to the Bishop, before such as the Bishop should call to him.

Proclama-
tion concer-
ning the
Prices of
Wines.

February 18. The King according to the Statute of 4 E. 3. and in pursuance of the Statute of 28 H. 8. for prizing of Wines, by virtue whereof the Lord Keeper, Lord Privy Seal, and two Chief Justices had set the Prices following upon Wines, did by his Proclamation command, That for one Year then next following, Canary Wines, Muscadals, and Alicants, should be sold in gross at sixteen pounds the Pipe, and twelve pence the Quart by Retail; Sacks and Malagas at thirteen pounds the Butt, and Nine-pence the Quart; the best *Gascoigne* and *French* Wines at eighteen pounds the Tun, and Sixpence the Quart; and the *Rochel* and other small thin Wines at fifteen pounds the Tun and Fivepence the Quart, in all the Ports and Places where they are landed, and within ten miles of the same; and where conveyed further by Land Carriage, four pounds the Tun, and one Penny the Quart shall be allowed for every thirty Miles, and so proportionably. And Information of the Delinquents was to be given by the Magistrates, Customers, &c. to the Privy Council: whereby may be seen the difference of the Rate

Rates for which Wines are sold at present, from what they were in this year 1632.

March 21. A Commission issued under the Great Seal with Instructions thereunto annexed, and directed to *Thomas Lord Viscount Wentworth* and others, empowering them to hear and determine all Offences, Misdemeanours, Suits, Debates, Controversies, Demands, Causes, Things and Matters whatsoever therein contain'd, within certain Precincts in the Northern Parts. By the 19th Instruction the said President and the rest were appointed to hear and determine divers Offences, according to the Course of the Star Chamber, whether provided for by Act of Parliament or not, so that the Fines impos'd be not less than appointed by the Act. By the 23^d Instruction they were appointed to hear Complaints according to the Course of the Chancery concerning Lands, Leases, and other things therein mentioned, and to stay Proceedings at Common Law by Injunction. By the 28th Instruction they might send a Sergeant at Arms, and attach in any part of the Realm. By the 29th Instruction no Prohibition shall be granted by the Courts at *Westminster* to the Court at *York*, but where the President and Council exceed the King's Instructions: and if any *Habeas Corpus* be granted for not performing the Order of that Court, the Party committed not to be discharged till he hath perform'd the Order; and if any Fine be thereupon estreated, the Court of Exchequer shall discharge it. In 1640. the Lord Viscount *Wentworth*, then Earl of *Strafford*, being impeach'd in Parliament, one Article was, his procuring the said Commission to enlarge his Power; and a Witness testified, That in *November* 1632 (before this Commission) his Father being arrested in *London*, and kept eighteen Weeks, and conceiving his Case to be out of the Instructions, appeal'd to the Council-Table; That the Earl of *Strafford* being present, fell on his knees and besought the King, that if his Instructions were not so good as to bring in a Delinquent that had affronted the Court, if he should go beyond his Precinct, he might leave that Service, and lay his Bones in his own Cottage. And as to Prohibitions, a Witness prov'd, That in the Case between *Masgrave* and *Vaux*,

8 Car.
Commission
to the Ld
President
and Council
in the
North.

Ann. 1632. a Prohibition being procured by *Vaux*, a Warrant was directed to arrest the Party that procured it; who being rescued, a Warrant issued for bringing the Rescuers from *London*, and they being brought to *Tork*, were there imprison'd, and an Information exhibited against them: That the Lord President threaten'd, that whosoever brought a Prohibition there, he would lay him by the heels: That he and the Judges had several Meetings about the matter of Prohibitions, but could not agree; and the Lord President told them, that *Vaux* should not be in *England*, but he would have his Bod: Then a Counsellor at Law was produc'd, who was told by Judge *Hutton*, that the Lord President was angry with him for granting Prohibitions, and understanding my Lord was angry with him (the Deponent) too for moving for Prohibitions, he went to wait on him; but my Lord told him he had nothing to say to him, he was one that oppos'd him, but for the present he had eas'd him of the Office of a Justice of Peace. That his Lordship meeting him in *London*, commanded him not to depart the Town; and all the reason he could understand from others was, that he did oppose his Lordship: by which he conceives was meant the not paying the Knighthood-Mony, or moving for Prohibitions which he never afterwards durst move for, nor any durst retain him till very lately. That having after twelve or fourteen days stay in Town, got my Lord leave to go into the Country, and afterwards being sent for by a Pursivant to *Tork*, my Lord told him, there was an Accusation against him, but he must attend for they that laid it were not yet come to Town, and they were his Betters: That after eight days custody in the Pursivant's hands, being brought to the Council-Table his Lordship commanded him to kneel, but in his kneeling was offended that he stay'd no longer in the posture; then he understood the matter was for speaking for his Client at the Sessions, upon the traversing an Indictment, where the Question was, Whether bare Indictment was Evidence to a Petty Jury which he (the Deponent) denying, and appealing to the Judges, my Lord told him he would teach him to know there were other men to appeal to, meaning himself and the Council; and he was forc'd to find Sureties and make his Submission at the Sessions: all which

he conceiv'd originally grew from his opposing the Jurisdiction of the Court of York. To this the Earl of Strafford answer'd, That the Instructions granted 21 Marrii 8 Car. were not procur'd by him; but the Commission and Instructions are of course renewed upon the Death of any of the Council of the Fee in ordinary, as it was here upon the going out of Sir Arthur Ingram, and Sir John Melton's succeeding: That after the Date of this Commission he never did one Act as President of the Council of York, but went towards Ireland in July following. He said, the Court of the President and Council of York had at its first Institution a Starchamber and Chancery Power, as appears by all the Instructions hitherto; and if a Judge errs in giving a Sentence, there's no reason it should be heightened to Treason; few Judges would serve upon those terms, and for his part he had rather go to his Cottage: That what one Witness saith about his Father's Commitment and Appeal to the Council, and another as to the Prohibition granted in the Case of *Vaux* and *Musgrave*, those matters are out of his charge; and he leaves it to their Lordships, whether the enlarging of a Jurisdiction (which every man will desire as far as in reason and justice he may) can amount to Treason. As to the Witness who saith he commanded his stay at London, that too is out of his charge, and is precedent in time to the Commissions of 8 and 13 Car. wherewith he is charg'd; besides he speaks by hearsay from Mr. Justice *Hutton*. Then the Earl produc'd a Witness, who prov'd he never sat as President after the Date of the new Commission, and was in Ireland when the Commission of 13 Car. was renewed. He concluded, that being charg'd with the procuring and executing that Commission of 8 Car. he denied both. For reply, the Committee of Parliament desired it might be observed, that it was upon his falling on his knees, and praying his Majesty to enlarge his Power, or give him leave to lay his Bones in his own Cottage, that this Commission was granted; and he grew so high a little before the renewing the Commission, that he threaten'd to lay them by the heels who brought the King's Writ.

Ann. 1622.

Mr. Hide's
Speech con-
cerning this
Court.

Concerning this Court of President and Council of the North, Mr. Edward Hide (a Member of the House of Commons Anno 1640. and one that shewed his Loyalty to Charles I. in the time of the late War, and was afterwards Lord High Chancellor of England) made a Speech to the House of Lords to this effect; That he was commanded by the House of Commons to present to them a crying Grievance, which tho complain'd of but by the Northern Parts, yet by consequence is the Grievance of the whole Kingdom. The Court of the President and Council of the North hath so prodigiously broken down the Banks of the first Channel in which it ran, as hath almost overwhelm'd the Country under the Sea of Arbitrary Power. As to the Original of this Court, upon suppression of Religious Houses to such a value, 27 H. 8. there were within the Compass of three years no less than six Insurrections in the Northern Parts upon that Quarrel; and that King knowing what he meant to do with the greater Houses to prevent the like Inconvenience, Anno 31. granted a Commission to the Bishop of Landaff (the first President) and others for the quiet Government of the Counties of York, Northumberland, Cumberland, and Westmorland, the Bishoprick of Durham, the Counties of the City of York, Kingston upon Hull, and Newcastle upon Tyne. This was but a Commission of Oyer and Terminer; only it had a Clause in it for the hearing of all Causes real and personal, when either of the Parties were so poor, as they could not prosecute or defend at Law; a Clause utterly illegal and void in Law, and whether they ever exercis'd that Power is a question, for no Complaint appears there against that Court. 1 Jac. The like Commission was granted to the Lord Sheffield; only it refer'd to Instructions to be sent, but none such appear. In Jun 7 Jac. The Commission was renewed to the Lord Sheffield, very different from the others; for, that they should inquire *per Sacramentum proborum & legalium Hominum*, and determine *secundum Leges Angliae*, was left out, relation being only had to Instructions. Since the Lord Strafford came to the Government, in the Commission of 8 and 13 Car. a new Clause was inserted for granting, sequestering, and establishing

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Possessions according to their Instructions, the ninth whereof requir'd Obedience to such Ordinances and Determinations as should be made by the Council-Table or High Commission Court, which introduceth that *miseram Servitutem, ubi fas est vagum & incertum*. He refer'd their Lordships to six other of those Instructions, being 58 in all, and scarce one of them that is not against or besides the Law. Whether his Majesty cantonize out a part of his Kingdom to be try'd by Commission, when the whole is under the Government of the Courts at *Westminster*, is not now the Question. By *Magna Charta* his Majesty cannot erect a new Court of Chancery or Star-chamber; but the 30th Instruction erects a Dominion liable to no Controul: For the Courts of *Westminster* have a Superintendence to regulate the Jurisdictions of all inferior Courts, if they exceed their Limits; and the Judges are sworn to grant Prohibitions; and the stopping the granting them, or neglecting them when granted, is a bold scorn put upon the Law. 7 *Eliz. Rep. 31*. An Attachment was granted against the Archbishop of York then President of that Council, for forbidding the Goaler to deliver *Lambert* a Prisoner, for whom a *Habeas Corpus* was granted. But what have the good Northern People done to be disfranchis'd of all their Privileges by *Magna Charta* and the Petition of Right, and disinherited of their Birthright? for such are Prohibitions and Writs of Error and *Habeas Corpus*. These Instructions tell us they shall proceed *secundum sanas discretionis*, that is, they shall do what they please. And great Care is taken in the Instructions, that this Discretion be not kinder than the Law; no less Punishment is to be than the Law appoints, but as much greater as their Discretion shall think fit. If the Law require my good Behaviour, this Discretion makes me close Prisoner; if the Law sets me upon the Pillory, this Discretion appoints me to leave my Ears there: Whereas to proceed according to Discretion is to proceed according to Law, which is *summa discretio*. The poor People have found this Discretion the Quickland which hath swallow'd up their Property, their Liberty; and the vex'd worn our People of the North, pray that this Court may be not regulated but abol-

Ann. 632. hith'd. This Court was afterwards taken away by Act of Parliament.

A Plea and Demurrer over-rul'd, and an Answer expung'd in the Star-chamber.

39 Interrogatories with the Depositions suppress'd.

16 Soap makers censur'd for using their Trade.

K. of Sweden's Proposals concerning the Palsgrave.

An Information being exhibited in the Star-chamber by Mr. Noy Attorney General, against John Overman and fifteen others, for using the Trade of Soapmakers, and other Offences contrary to several Letters Patents and Proclamations: They pleaded and demurred to part, and answer'd to other part; but the Plea and Demurrer being overrul'd, the Advantages thereof being sav'd to them upon the hearing, the Defendants put in their Answer, and set forth several Acts of Parliament, Letters Patents, Charters, Customs, and Acts of Common Council of London, and other matters, and in conclusion pleaded Not guilty. The Answers being refer'd to Sir Robert Berkley, then one of the Justices of the King's Bench, and others for impertinency, he certified, that the whole Answers, except four Words and the last ten Lines, should be expung'd, leaving nothing material, but the Plea of Not guilty. And the like Reference being afterwards made of the Interrogatories and Depositions on the Defendants part, he certified 39 Interrogatories and the Depositions thereupon taken should be suppress'd, and they were expung'd and suppress'd accordingly; by means whereof the Defendants were committed and disabled from using their Trade of Soapmakers, one fined 1500 l. two 1000 l. a piece, and four 1000 Marks a piece; the Fines estreated into the Exchequer, and the Defendants depriv'd of their Trade and Livelihood and ruin'd. Sir Robert Berkley being afterwards for this and his Opinion in the case of Ship-mony and other matters, impeach'd by the Commons, made no Defence, but submitted to a Fine of 10000 l.

But now let us return to the Affairs of Germany. Towards the middle of July the English Ambassade had his last Audience of the King of Sweden, about the Restauration of the Palsgrave, and the King of Sweden made Proposals to this effect; 1. That the Palsgrave should hold his Country as a Donative of the King of Sweden. 2. To make no martial Levies without the Swedes's consent. 3. During the War to furnish the Swedes with so many thousand Men upon their own Pay. 4. Two of the Palsgrave's chiefest Towns

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should stand Cautionaries for performance. 5. To make no League without the Swede's consent. The Ambassador, mov'd at these dishonourable Proposals, told the King of Sweden, he hop'd the Battel at Leip-sick and other Successes did not heighten him so as to forget his Declaration to restore the Liberty of Ger-many, or to forget the King of Great Britain, who had sent him the Assistance of 6000 men, which had cost him 100000/. The King of Sweden huff'd at this, and quarrel'd with the Ambassador, as tho he prevaricated from his Instructions, and seem'd to be hispaniz'd, and favour'd Spain more than Germany. The Ambassador making a smart Reply, the King fell into fury, stamping to and again in a great rage, and so they parted. But July 19. he sent his Secretary to the Ambassador, who told him the King his Master could not agree to the Conditions propounded; the King of Sweden demanding a League offensive and defensive for a limited time, and that the Peace of Ger-many should be only in his the King of Sweden's hands: Which varied from the former Treaty, whereby no Peace could be without the King of Great Britain's consent. Besides the Ambassador propounded only a League of Assistance, and the time indefinite and arbitrary.

8 Car.

*The Am-
bassador's
Answer.*

*The King
and he part
abruptly,
the Treaty
broken off.*

The King of Sweden thus abruptly breaking off the Treaty, the Ambassador 19 Aug. writ a Letter from Noremberg to Mr. Secretary Cook, to this effect; That that King was not so prompt in breaking off the Treaty, and offering him his Recreditive, as he is now slow in performing it; He finds the King is not willing he should go, nor can he yet get a Pass for his Secretary. 'Tis intimated to him the King would willingly set the Treaty on foot again, and they speak of new Articles, but he will hearken to no Overture, till he knoweth his Majesty's pleasure; That the King of Sweden or-der'd Colonel *Dubarle* to go and petard the Town of *Fredstade*, and burn it, being a Magazine of Corn for the Enemy; the Petards failing, he scal'd the Walls, enter'd the Town, and fir'd it: the King marching out with 300 Musquetiers and 4000 Horse to secure *Dubar-le's* Retreat, a Skirmish happen'd between him and Major General *Sparre*, who had with him 13 Companies

*The Am-
bassador Sir
H. Vane's
Letter to
Mr. Secre-
tary Cook.*

Ann. 1622.

of Croats and 500 Foot, where was kill'd on the King's side Colonel Rice and others, on the Enemy's side 200, and as many Prisoners, among them Sparre and several Officers. The King hath propos'd to the Deputies of several Imperial Towns the raising of Contributions for his Armies, which he designs to be three, each of 27000 Foot and 4000 Horse. How welcome this Proposal was, may be easily judg'd; for the Deputy of *Strasbourg* excusing that Town because of their Neutrality, without which their Country would be burnt and spoil'd, the King replied publicly, they had proceeded so coldly in the Cause of their Religion and Liberty, that they deserv'd to have not only their Country, but their Town burnt. The King shortly expects an Ambassador from *France*; 'tis thought 'tis upon the old ground of Neutrality for *Bavaria* and the Catholick League. He believes *Bavaria* will not fall off from his new Alliances with the House of *Austria*, tho he is underhand tampering with the Evangelicks; which is the reason he believes this Embassy to be to draw them and *Bavaria* to a better understanding, upon the old ground of removing the Empire from the House of *Austria*. He saith the King presses him much to stay with him till his Armies are join'd, which he could not well refuse, tho Men die fast both in Town and Camp. That he knew not what to make of the business between this King and the Elector of *Saxony*: the King told Sparre, when taken Prisoner, that he knew that between *Fridland* and *Saxe* which it imported him to know, and which if he would not discover, he would pistol him: Sparre reply'd, he would discover as much as he could with his Honour. That *Camerarius* had brought him this King's Recreative, tho not absolutely in the manner he was told, it being usual with this King to repent himself, he having often confess'd to him (the Ambassador) that he is not Master of his Passions, but when he is mov'd something rises in his Brain that makes him forge what he saith or doth, that he cannot master it, and hopes God and the World will forgive him. That *Camerarius* told him further, that the King desir'd him to reside with him, to be a Mediator if any Overture of Peace should be set on foot, he having a Faculty for

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his present ends to put himself into any shape; for he is of opinion this King intends not Peace, but in case of necessity; but sees that as the residing of his Majesty's Ambassador near him in this Conjunction gives countenance to his Affairs, so his Departure would as much discountenance them. That Capt. *Lesley*, who serves in *Fridland's* Army, and was taken Prisoner two days since, tells him (the Ambassador) that *Saxony* is fallen off from his Agreement with *Fridland*, who hath sent Forces to fall into that Elector's Hereditary Countries. *Lesley* boasts that *Fridland's* and *Bavaria's* Armies are 80000 Men, besides 30000 more raising; but are in want of Bread: 'Tis probable, if a Blow be struck, the Victor will have the Affairs of *Germany* in his power. That he had seen a Letter from the Elector of *Saxony* to the Marquis of *Cullinback* (who is of the House of *Brandenburgh*, and at present with this King) advising to Peace, or the Empire would be ruin'd: so that he knew not what to judge of that Duke's Proceedings. *Fridland* speaks with much Affection of his Majesty, and as if he would be a Friend in the Affairs of the Palatinate. The Jealousies remain still between *Fridland* and *Bavaria*.

August 24. the Ambassador writ another Letter from *Noremberg* to Mr. Secretary *Cook*, to this effect; The 18th Instant the Duke of *Saxe Weimar*, *Banier*, &c. with their Forces join'd the King of *Sweden*; they make in all 13000 Foot and 8000 Horse. The King saith, that he will to morrow approach the Imperialists, and cannonade them out of their Trenches; but that is sooner said than done. The King of *Bohemia*, notwithstanding the breaking off the Treaty, seems to have more hopes than ever; and believes the King of *Sweden* will restore him his Country, which he (the Ambassador) doubts, unless it be in such a manner as it shall not be worth his Acceptance: but 'tis not his part to undeceive him. He assures himself, his Majesty will not think it fit to continue an Ambassador longer there, nor yet will absolutely desert the King of *Bohemia* or his Affairs: he conceives it best for his Majesty to have an Agent resident with the King of *Sweden*, to have an eye upon Affairs, and leave the King of *Bohemia* to treat for himself; who is so confident of Success,

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K. of Swe-
den in a
great Pas-
sion.

M. Hamil-
ton returns
to England.

cess, that he told Marquis *Hamilton* and him, That he doubts not but to keep his Winter-Quarters at *Heydelburgh*.

Soon after this abrupt breaking off the Treaty, the Marquis of *Hamilton* pressing the King of *Sweden* to assign him a Country for levying a new Army, and telling him his Heart was too great to be a Volunteer any longer, as he had been for several months past; the King of *Sweden* acknowledg'd his great Obligations to him, and that he had reason to be weary, but imputed the Delay to the *English* Ambassador, on whom he fell a railing with the greatest Passion imaginable, and in a buffing way pull'd the Marquis's Hat out of his hand, and clap'd it on his own Head, and went stamping up and down the Room. The Marquis shun'd the Discourse, conceiving the chief Cause of his Passion was, that many of the Princes of *Germany* were beginning to talk that their Deliverer was like to prove a greater Tyrant than the Emperor, and the King suspected the Ambassador was caballing with them. The Marquis seeing nothing but Delays, desir'd liberty to return to *England*; and the King sign'd a Commission to him for bringing a new Army, and gave him Instructions for ending the Treaty, dismissing the Marquis with high Expressions of Friendship. As he was returning home he receiv'd a Letter from his Majesty, dated 24 *Septemb.* importing it was not fit for him to stay any longer. Thus ended the Marquis's Expedition into *Germany*. That it had not the Success which was expected, was not the Marquis's fault, who fail'd not a jot of what he undertook, altho the King of *Sweden* fail'd almost in every particular. After the King's death, *Oxenstern* and all his Counsellors, during the Minority of their young Queen, recommended all their Affairs at the *English* Court to the Marquis, with the highest Expressions of Esteem, and divers of the Electors and Princes of *Germany* continued their Correspondence with him; and when he return'd to the Court, his Reception with the King was as affectionate as his Parting.

His Majesty understanding the small hopes there were of Success with the King of *Sweden*, writ a Letter

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Letter to him, expressing his readiness to promote the Common Cause, and to do that King all good Offices; that he had sent the Marquis of *Hamilton* to him with Forces at his own Charges, whereby that King's Enemies were distracted one among another, and the Princes his Associates were confirm'd in their Fidelity; that the Embassy he sent, was first to treat of an Auxiliary League for recovery of his Brother's Paternal Inheritance, and then of a social one for the Common Safety, which was the method prescrib'd by him to his Ambassador Sir *Henry Vane*, and which he had faithfully observ'd; that he (the King) had never made any alteration, either in the nature of the League, or concerning the power of his Ambassador; nor ever revok'd any thing agreed upon; but because his *Swedish* Majesty doth not think fit to observe the way he had laid down, he had recal'd his Ambassador.

Upon the receipt of this Letter, the Ambassador being then at *Strasburgh*, sent it by his Secretary *Curtius* to the King of *Sweden*, with another from himself, dated *Octobr. 31.* acquainting him that his Majesty had call'd him home, and with what a sensible regret his express Order to depart forthwith, had depriv'd him of the opportunity to kiss his Majesty's Hands; that *Curtius* was appointed, by the King his Master, to manage his Affairs with his *Swedish* Majesty. The Ambassador writ another Letter to the King of *Bohemia* of the same date, giving him notice of his being recall'd home, where he shall be more capable of serving his Majesty than he hath been hitherto, when he is near a Master who will not abandon his former Resolutions to his Majesty's advantage; and as an infallible sign thereof, he hath establish'd his (the Ambassador's) Secretary for the continuation of his Affairs with the King of *Sweden*; that he had order'd him to *Mentz*, to give his Majesty an account of all Transactions; that he hath sent with *Curtius* a Courier, that may overtake him on the way, and bring him his Majesty's Commands. With *Curtius*, his Majesty's Agent with the King of *Sweden*, the Ambassador left these Instructions: 1. To go to *Mentz*, there to give the King of *Bohemia* all assurance of the continuation of his Majesty's Love and Affection, tho the Treaty is by the

8 Car.
K. Charles
his Letter
to the K.
of Sweden
recalling
his Amba-
sador.

Who writes
to the K.
of Sweden.

And to the
K. of Bo-
hemia.

His Instruc-
tions to
Curtius.

King

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King of Sweden discontinu'd at present. 2. If the King of *Bohemia* should further press him upon the Particulars of the Treaty, he shall tell him, that it being propos'd to the Ambassador by the Persons his Majesty deputed to confer with him, that a motion should be made by the Ambassador to the King of *Great Britain*, not to treat further with the King of *Sweden*, or permit him to make any more Levies in his Dominions, unless he should first restore to the King of *Bohemia* what he possess'd of his in the *Palatinate*; the Ambassador consented thereunto, provided his Majesty of *Bohemia* would send an Express to Sir *Francis Nethersole*, his Resident in *England*, to move it also, which the said Deputies promis'd should be done as soon as his said Majesty arriv'd at *Frankfort*: yet, upon his (*Curtius*) departure from *England*, no such Express was arriv'd there. 3. To enquire what new Overtures those are which are made to that King by *Sweden*. 4. To enquire how far the *French* King hath an eye upon the King of *Sweden's* Proceedings with the Town of *Strasburgh*, and whether the *Spaniards* may not be induc'd to deliver *Frankendale* to the King of *Great Britain* or of *Bohemia*. 5. To endeavour the Discovery who do ill Offices between the Kings of *Great Britain* and *Sweden*.

We will now look back and give the Reader an account of some military Engagements of the *Swedes* Army, from the beginning of this year 1632, according to the Old Stile, where the *English* and *Scots* were concern'd in the Action.

Crutzen-
nach taken
by the K.
of Sweden.

In Feb. 1632, O.S. the King of *Sweden* with the King of *Bohemia*, came before the strong Castle of *Crutzenach*, garison'd by *Spaniards*. The Place was taken by Assault, not without several of the Assailants kill'd, and almost all of them wounded; among these latter was *William Lord Craven*; to whom, when afterwards he came into the King of *Sweden's* Presence, the King said, he adventur'd so desperately that he gave his younger Brother fair play for his Estate; tho taken by Assault, yet not one of the Enemy was put to the Sword, after the Assailants were Masters of it. After this the King of *Sweden* design'd for *Frankendale*; but *Tilly*, Lientenant-General to the Duke

Duke of *Bavaria*, having contrary to the Truce agreed on between the King and that Elector, design'd to fall on *Gustavus Horn*, the King march'd towards *Bavaria*, and with great difficulties gain'd the passage over the *Danube*, but especially over the *Lech*, where the Enterprize was dangerous, and by some thought impossible: But the King's Courage surmounted all; for understanding the serpentine Windings of the *Lech*, which form'd it self at every turning into the figure of a Half-moon, he intrench'd himself, rais'd three Batteries on the Banks of the River, and play'd with 72 pieces of Cannon on six Regiments of *Tilly's Army*, who were lodg'd in the Forest opposite to them; and (the *Bavarians* being blinded with the Smoak) he made a Bridge of Boats on the River, and commanded some Companies to pass over and intrench on the other side. *Tilly*, with four pieces of Cannon, endeavour'd to beat down the Bridg, and atack'd the *Swed*s three several times, but was repuls'd: whereupon the King pass'd the River, but the *Bavarians* dislodg'd in the night before he came. In this Action *Tilly* was struck with a Bullet of three pounds weight above the Knee, after it had made several Rebounds, and was carried in a Litter to *Ingolstadt*; there they took four broken Bones out of his Thigh with unutterable Torment; but his Weakness, Age and Grief brought him to his Grave: His Loss was much regretted by his own Party, and had been more, but for his misfortune at the Battel of *Leipsick*: Many remember'd the words of the Administrator after the Slaughter of *Magdeburgh*, That Blood could not be expiated but by Blood, and Murders were fatal sooner or later; in fine, some few Misadventures excepted, his Courage, Experience, Conduct and Services, rendred him one of the greatest Commanders of the Age: He left to his Veteran Regiments a Legacy of 60000 Rixdollars. The King of *Sweden* having gain'd the Pass, entred *Bavaria*, and destroy'd 80 great Towns, Castles and Villages; and advancing too near *Ingolstadt* to take a view thereof, a Bullet took his Horse in the Crooper, and cover'd him with Blood and Dust. His Retinue were in an unexpressible Terror, but overjoy'd when they saw him safe, and supplicated him to manage his

8 Cav.

He marches towards Bavaria.

And passes the River Lech.

Tilly wounded.

And dies.

His Legacy to the Soldiers.

K. of Sweden narrowly escapes at Ingolstadt

Life

Ann. 1632.

Life more carefully, upon whom so many Lives depended. He reply'd, the Bullet had put him in mind he was mortal, that he resign'd himself to God's Providence, and if he miscarry'd, the *German Liberty* would not want Maintainers; the King pursu'd his advantage in *Bavaria*, until he advanc'd towards *Ulm*, and going forwards, settled his Quarters near *Nuremberg*.

After *Tilly's* death the Emperor was in great perplexity, half the Empire being subdu'd by the *Swede*, the Duke of *Saxony* Master of *Bohemia*, and the Duke of *Bavaria* uncertain whether best to adhere any longer to the House of *Austria*. At length he resolv'd to have recourse to *Wallestein*, whom he had formerly cashier'd; and the Duke of *Bavaria*, who had contributed to the laying him aside, seemingly comply'd to make *Wallestein* Generalissimo: The Emperor was put to great difficulties how to get him to accept of it, and us'd the Mediation of his Relations and Friends. *Wallestein* now saw an opportunity of effecting his Design put into his hands, but modestly excus'd himself, alledging his Age, and the Desire he had not to be rob'd of his Repose, deploring the misfortune of his Sovereign the Emperor, when he had revenge in his heart for the Affront put upon him; but being incessantly press'd, he promis'd his Service for four months only, and in that time to raise 30000 men, but then he would be absolute, and not commanded by *Ferdinand* King of *Hungary*, the Emperor's Son, for his secret aim was to usurp the Kingdom of *Bohemia*. His acceptance of this Command gave reputation to the Emperor's Affairs. In two months time he rais'd 30000 men, employ'd several Colonels, Captains, and other Officers, whom he had retain'd since dismiss'd his Command, and his Kinsmen and Confidants had the greatest Commands under him. This startled the Ministers of *Spain* and *Bavaria*, but Affairs were then in such a Condition, as they must cast themselves upon *Wallestein*. In *April* he marches into *Bohemia*, summons *Prague*, where the Duke of *Saxony* had 7000 men, takes the lesser City by Storm, which presently brought the other City to Composition, to go out with their Lives and Baggage, only with Swords by their

Walle-
stein made
the Empe-
ror's Gene-
ralissimo.

His ambi-
tious De-
sign.

He takes
Prague.

their Sides, leaving their Colours and other Arms; the Colours he sent to *Vienma*, and the Emperor created him Duke of *Great Glogou* in *Silefia*. In June he took *Egra*, a strong Garison Town and other Places, and he and the Duke of *Bavaria* join'd their Forces against the King of *Sweden*, who had intrench'd himself near *Noremberg*, being then too weak to encounter with both; and *Wallestein* came and intrench'd himself between *Noremberg* and *Furt*, Aug. 18. The King's Forces which had been sent out under *Oxenstern*, the two Dukes of *Weimar*, the Landgrave of *Hesse*, and *Banier*, join'd him on the 21st, his whole Army consisting of 26000 men, stood all day in Battalia before *Wallestein's* Trenches in a Bravado, but *Wallestein* would not stir out of his Quarters. The King from three Batteries play'd incessantly upon him, and he did the like upon the *Swedes*, and the 22^d retir'd into the Forest of *Altembergh*, and there making use of an old Fortress, strongly intrench'd himself: The King, understanding the Emperor had sent to *Wallestein* to avoid fighting to weary out the *Swedes*, resolv'd (tho contrary to the opinion of many of the Commanders and Officers) to attack him in his Trenches, the King of *Bohemia* and Marquis *Hamilton* being Eye-witnesses of what follow'd: The King led the Vanguard of the Left Wing, Duke *William* of *Saxe-Weimar* the Battel, and Duke *Barnard* with the Landgrave of *Hesse* the Rear; some of these Troops were sent to fall on the said ruinous Castle on the Hill; ten hours were spent in the assaulting and defending it; and there many a brave Gentleman lost his Life: *Wallestein* had the advantage of the higher Ground, Trenches and Batteries. The *Swedes* being most of them come down from the Castle to the Plain, the Imperial Curiaffiers fort'd them to give ground, and several of the Commanders were slain or taken; the night put an end to the Skirmish. The Imperialists kept their ground, and the King now (too late) remember'd how he was dissuaded from this rash attempt; and having the fallen General in the fastness of his Trenches, march'd towards *Bavaria*; *Wallestein* dislodg'd likewise.

Novemb. 1. The King arriv'd at *Naumburg* with his Army, and the same day went out upon a Party to discover *Naumburg*.

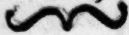
8 Cur.
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Ann. 1632.



discover the Enemy; after him went three *English* Gentlemen, Lieutenant-Colonel *Francis Tirwhin*, Maj. *John Pawler*, and Captain *Edward Fielding*; who taking the right hand way, the King having taken the left, fell into an Ambush of the *Crabats*, and the first and last were taken Prisoners. Nov. 4. A *Saxon* Boor brought a Letter to the King, written by Count *Coloredo* Major General of the Imperial Army to an Officer (which Letter the Boor was forc'd to carry) importing, that *Papenheim* was gone to take *Hall Castle*, and the next morning *Wallestein* was to break up from *Weissenfels*: Whereupon the King, at a Council of War, propounded this question to Duke *Bernard* and Major *Kniphausen*, whether in *Papenheim's* absence, *Wallestein* was to be set upon? Duke *Bernard* was for the valliant Affirmative, but *Kniphausen* for the sober Negative, because no man is to attack a stronger Enemy, but when compell'd by an unavoidable Necessity. This reason prevailing with the King, he resolv'd to go and join the Dukes of *Saxony* and *Lunenburgh*, and set out on Monday the 5th from *Nauemburg*; but in his march, about ten in the Forenoon, being inform'd by several, that the Imperialists were dispers'd about *Lutzen*, without any intelligence of his march, he call'd a Council of War, where Fighting was resolv'd on, and the King directed his course to *Lutzen*, which he was told was hard by, when it was eight miles off, and a narrow Bridge in the way over a River, which hindred the Army full two hours, so that it was night before they could get within two *English* miles of *Lutzen*. On the other side of the Pass in a Village were two Imperial Regiments of Horse, who had gotten up their Horses, and plac'd themselves on a high Hill, and made as if they would have disturb'd the King's Passage, but did not, only some slight Skirmishes happen'd with those that got over first; and the King taking another Hill, let fly some pieces of Ordnance among them, which caus'd them to march off. Here the King surpriz'd with the Darkness, was forc'd to lie in his Coach in the open Fields all night, and every Regiment lay in Battalia, in the same order as they had march'd, with their Arms by them. The Imperial Army was in a terrible Hubbub at the King's coming

Is dissuaded from fighting.

Resolves to fight.

coming over the Pass, and all far and near were sent for to repair to their Generalissimo at *Lutzen*, and the Mist kept the King off till his Enemies were made strong enough for him: *Wallestein* in the meantime planted his Ordnance, and intrench'd himself. Tuesday that fatal 6th of *Novemb.* came, but the Fog was so great, it was not possible to say which way to march. About eight in the Morning it began to clear up; the King then made an Oration, first to the *Suedes*, then to the *Germans*, encouraging them to fight valiantly, which was answer'd with a horrid clattering of Armour, and with loud Acclamations; and the King sent up this Ejaculation, *That Jesus would be his strong Helper, and give him Courage that day, to fight for his Glory, and the Honour of his great Name.* The King was in a plain Buff-coat and unarm'd; and when that Morning they brought him his Corslet, he said, *The Lord was his Armour*, and refus'd it. The King's Watch-word was the same as at *Leipsick*, *God with us*; *Wallestein's* the same as then, *Jesu Maria*. His Army (he having left some at *Naumburg*, and some at *Weissenfels*) was between 17 and 18000 men: His Right Wing was led by himself, the Left by Duke *Bernard of Saxe-Weimar*. The Imperial Right Wing was led by Count *Ridolfo Colorado*, the Left by Colonel *Hendrick Holck*. The King had the Sun and Wind (that little that was) to favour him, but *Wallestein's* number far exceeded the King's, and could be no less than 30000. The King having observ'd whereabouts in the Imperial Left Wing the *Crabats* were marshal'd, and where the *Cuirassiers* who were compleatly arm'd in Black Armour, call'd the Finnish Colonel *Stolhausse* to him, and pointing to the Enemy; as for those Fellows (meaning the *Crabats*) I care not for them (said the King) but charge me those black Fellows soundly, for they are the Men that will undo us. The King was still the foremost with his Pistol in one hand, and his Sword in the other: About eleven of the Clock the Mist fell again, and about that time (tis said) the King was slain: The Imperialists were masters of the King's Body, and strip'd him. The News of his Death was presently spread, but yet Belief was not fully given to it, it being generally thought

8 Car.

The Battel
of Lutzen.K. of Swe-
den slain.

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His Body
recover'd.A terrible
Fright.Papen-
heim slain.

His Will.

Death of
3 Kings.

thought he was wounded, and gone off in his Coach, which was then out of the Field, the truth being only known to some few of the Great Ones; and *Stolhanse* charg'd so fiercely, that he beat off the Imperialists, and recover'd the Body naked, after it had been a quarter of an hour in the Enemy's possession. By this time the Mist became so extraordinary, and by the Smoke so thicken'd, that the *Suedes* could not see how to pursue an advantage they had gain'd; and there happen'd so terrible an Affrightment in the Imperial Army, that 1000 or 1500 *Dutch* Horse ran away altogether; one of them was by a Gentleman of our Nation (then Prisoner in their Rear) overheard to say, *Oh! I know the King of Sweden well enough, I have served him, he is best at the latter end of the day: But the chief fright was among the Ladies, the Captains Wives and other Women then behind the Army (there being then at least 10000 Women, Children, Servants and Hang-byes among them) the Ladies got out of their Coaches, cut asunder the Harness, and mounted upon the bare Horsebacks, several Women and Children were trodden to death; nor would the Horsemen turn head, till they were got over a Pass four or five English miles from the place of Battel. Soon after the Count of Papenheim arriv'd with his Horse and Dragoons, whereby the Charge was renew'd; he put himself into the Imperial Left Wing, to be opposite to the Swedish Right Wing, where he suppos'd the King in person commanded, but was struck with a Bullet of a Falconet, or small Sling-piece about the Shoulder of which he died presently: He was a brave fighting Gentleman; the Order of the Golden Fleece had, as was said, been lately sent to him and *Wallestein*. He had made his Will a little before, and therein recommended his Soul to God, his Body (if he were slain to the Emperor, and his Wife and Children unto *Wallestein*. Never was Battel fought with greater Courage and Resolution on both sides; it lasted till about five in the Evening, and then the Imperialists fell off in the dark, and gave it quite over.*

This Year died three Kings, *Sigismund* King of Poland the 29th of April, *Gustavus Adolphus* King of Sweden

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Sweden the 6th of Novemb. and Frederick King of Bohemia the 10th of Novemb.

Wallestein Duke of Fridland, and the Emperor's Generalissimo, having collected his Forces at Egra in Bohemia, and paid them three months Pay, took the Oaths of Officers and Soldiers to himself, without naming the Emperor: And now his revenge for being cashier'd at the Diet at Rarishon, breaks out, and 'tis discover'd that he was to join with the Swede, and he made King of Bohemia. The Emperor seeing the danger, made sure of the Garison of Prague, and two of the Emperor's Colonels Gordon and Lestly Scots, and Butler an Irish Officer, abhorring the Treason, conspire his Death; Butler comes first to him in his Bed-chamber in Egra, as he was undressing for Bed, and crying out, *Thou Traitor to the Emperor and Empire*, run him through the Body stark dead. He was the Son of a Baron in Bohemia, which is a Lord there of the Prime Rank, they having neither Dukes nor Marquisses. His Father bred him a Protestant, being Page to the Marquis of Burgh, Son to the Archduke Ferdinand of Insprug, and falling from a high Window without hurt, he turn'd Roman Catholick; From thence he travell'd, and returning, was imploy'd by the Emperor in the Bohemian Troubles, where he, defeated 6000 Hungarians with 15 Troops of Horse; he conquer'd several Places in Germany, defeated Mansfield with 4000 Flemings, and drove him out of Germany after he had overthrow'n him the second time, and Berhlem Gabor; march'd with Tilly against the King of Denmark, rendered himself Master of all between the Ocean and the Baltick Sea, leaving that King only Gluckstadt, and a little Corner of his Kingdom, drove him out of Pomerania, and secur'd to himself all the Ports in the Baltick Sea, except the Sound. He was by the Emperor created Duke of Mecklenburgh: But his Ambition transported him; he was still Highness, ate alone, stamp'd Mony, and gave Audiences, affecting to resemble Kings.

The Emperor of Russia designing to regain Smolensko from the Poles, got leave to raise 2000 men in England, and the King recommended Colonel Thomas Sanderson to command them; they landed at Archangel,

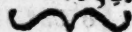
Car.
Walle-
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bition and
Revenge.

He is murder'd.

His Character.

2000 Eng-
lish sent to
assist the
Muscovites.

Ann. 1632.



Col. Sanderson
slain by Col.
Lefly.

The Muscovites
overthrown.

Lefly put
to a cruel
Death.

A Proclamation
about Silk.

Silkmen
incorporated.

angel, and the *Muscovites* laid Siege to *Smolensko*. The *Poles* march'd to relieve it, and intrench'd themselves: The *Muscovite* General designing to fall upon them in their Trenches, gave Colonel *Sanderson* the Command of the men that were to attack them: At which Colonel *Lefly* a *Scot* being offended, for that he was not honour'd with that Service as *Sanderson* was, hastening to his Quarter, shot him dead with a brace of Bullets: whereupon the *English* drew into a Body to be reveng'd of *Lefly*, and the *Scots* did the same; but the General prevail'd with both Parties to mind their Duty, and secur'd the Murderer. The *Pole* understanding this distraction, fell upon the *Muscovites* in their Leaguer, kill'd 5 or 6000 of them, and constrain'd the *Muscovite* to accept of a Peace upon dishonourable Terms. The General of the *Muscovites* at his return home had his Head chop'd off, his Son the Lieutenant-General was whip'd to death about the Streets, and his Family banish'd for ever into the Country of *Ibera*, there to catch Sables for the Emperor. *Lefly* the Murderer was sent Prisoner to *England*, and prosecuted by *Sanderson's* Friends in the Court of Chivalry; but that Court it seems could not punish with Death a Murder committed in a Foreign Nation: He afterwards obtain'd his Pardon, return'd into *Muscovy*, and upon suspicion of Treachery was flung down from a high Tower upon sharp Stakes and Spikes fix'd in the Ground, where he endur'd a lingering Death.

A Proclamation issued, giving notice, that whereas by a former Proclamation, Aug. 9. 6 Car. all Deceit and Falsity in the dying of Silk was forbidden, his Majesty finding the same could not be prevented any better way than by a Corporation to consist of Persons skil'd therein, had by Letters Patents, dated 10 May last, incorporated several Persons, using the Trade of buying, selling or working of Silk, Gold and Silver-thread, and the several Manufactures thereof and their Successors, by the name of the Governor and Company of Silkmen of *London*, for the well-ordering the Silk-Trade throughout *England*, *Ireland* and *Wales*, and punishing and preventing all Abuses in the throwing, twisting, dying, mixing, weaving, working and

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and selling of Silk, Silkwares, or Gold or Silver-thread, or in their Manufactures, and to make Laws and Ordinances concerning the same; and that all Silk heavy dyed should be burnt or destroy'd.

Other Star-chamber Cases, Anno 1632.

Pascha 8 Car. The Defendant *Caston* being Attorney for *Armiger* and *Goddard*, su'd *Walton* on a Bond for 100 l. obtain'd Judgment and a *Fieri Facias*; and procur'd a Warrant thereupon to the now Defendant *Walton*, who levied Goods of *Walton* to the value of 77 l. 18 s. 6 d. which were sold, and *Caston* receiv'd the Mony, but refus'd to deliver it to the Sheriff, and caus'd him to be amerc'd 40 l. for not returning his Writ, *Caston* having before bought the Judgment of his Clients, which the Court judg'd Champerty. *Caston*, afterwards upon an *Elegit*, extended the Moiety of *Walton's* Lands for the Residue: He likewise procur'd *Fenner* to be arrested by the Defendants *Walton* and *Gonnell* his special Bayliffs, upon a Writ of Privilege for 20 l. upon Bond, tho (the Mony being made payable on a Sunday) *Fenner* tendred it to him the day before, and the day after *Fenner* paid the Mony; but the Bayliff of the Liberty of *Sr. Etheldred* and five of his Bayliffs, having arrested *Fenner*, and taken him out of the Custody of *Walton* and *Gonnell* (who would not acknowledg they had arrested him before, tho ask'd) *Caston* caus'd *Walton* and *Gonnell* to return a Rescue, whereupon the five Bayliffs were su'd, imprison'd and outlaw'd: Then he arrested the said Bayliffs on several Actions upon Writs of Privilege at his Suit for the same Rescue, and four of them not being able to find special Bail, *Caston* got the Bail Bonds from the Under-Sheriff's Clerk, and without the Sheriff's Consent put them all in Suit severally against them and their Sureties: He us'd to get blank Warrants from the Under-Sheriff and fill them up: He su'd one *Hills* in the *King's Bench* and *Common Pleas* for the same Debt: He su'd forth Execution on a Judgment against his own Client: He accus'd *Sir Robert Hirscham*, sitting upon the Bench at the Sessions, of Partiality and Malice: He practis'd with a Maid-Servant

Att. Regis
vers. Cas-
ton & al.

Champerty.

Oppression
by multipli-
city of
Suits.

Suing in
a Sheriff's
name with-
out Consent,
&c.

Ann. 1622

A Bayliff
beating his
Prisoner.

Servant of Sir Robert and her Mother, to take a parcel of Articles which were deliver'd him against the said *Caston* out of her Master's Chamber Window, and persuaded her to swear they were written by her Master. The Defendant *Walton* having arrested one *Burd*, beat, kick'd and drag'd him, because he would not go to the Attorney against him: The Defendant *Gonnell* at Bury Assizes, by Threats and Bribes, procur'd two Witnesses to go away, whereby the Plaintiff was non-suited. *Caston* was committed, fin'd 1000 Marks, thrown over the Bar, disabled to be an Attorney, to acknowledg his Offences at the Assizes, and ask Sir Robert *Hitcham* Forgiveness; *Gonnell* committed, fin'd 100 l. he and *Walton* bound to their good Behaviour, and disabled to be Bayliffs, but *Walton* not fin'd, because but one Witness against him.

Smith ver.
Stoner &
al.
Fraud.

John Stoner by advice of *Angelo Stoner* his Brother, after the death of *Henry Evefeed*, made an Assignment in writing to *Angelo*, of a suppos'd Lease by *Evefeed* to *John Stoner*, of all his the said *Evefeed*'s Lands for 99 years, in which Assignment the consideration of 500 l. was mention'd, whereas now they both confess they never knew of any such Lease, nor was any of the said 500 l. paid, or intended to be paid. For this new kind of Fraud to disturb Titles, the Defendants were committed and fin'd 200 l. a piece; this Sentence was grounded upon matter confess'd, but not charg'd by the Bill: This Suit was also for the Forgery of a Will, but the Court would not damn the Will, because the Parties charg'd with the Forgery died *pendente lite*.

A Sentence
grounded
on Confessi-
on not a
Charge.

Young &
Sales Ser-
vus servus
versus
Broughton
Arm.
& al.
Disturbances
in the
Church.

Trin. 8 Car. The Defendant *Broughton* coming to the Chappel of Ease at *Charnes in Com. Stafford*, plac'd himself in a Seat where the Plaintiff *Sales* was by his Master's Direction; *Broughton* claiming an interest in the Seat, and holding *Sales*, *Young*'s Plowman, unfit to sit with him (it being done to affront him) wish'd him to go forth, which he refusing, *Broughton* took him by the Hair or Ear and thrust him out of the Seat, which *Young*, perceiving, went in the Sermon-time sit there himself; and *Broughton* meeting him at the entrance, took him by the Collar, and thrust him backward, at which the Preacher made a pause.

Broughton was committed, and fin'd one hundred *8 Car.*
Pounds.

The Seat in dispute being the chief Seat in the Chapel, and the Defendant *Young* rising out of his own Pew in Sermon-time, and endeavouring violently to get into the other Seat, to the disturbance of the Preacher and People; and the disturbance being first occasion'd by *Young's* placing his Plowman there; *Young* was committed and fin'd 50 l.

The Defendant the Lord *Savile*, with 20 or 30 others arm'd, came into *Maresfriston* Fields, where the Plaintiff with several other Gentlemen were (by the leave of Mr. *Vavasor*, who had free Warren in the Mannor) hunting the Hare, and said to the Plaintiff, Sirrah, by what Authority do you hunt here? whereunto the Plaintiff answering, by Mr. *Vavasor's* leave, the Lord *Savile* reply'd, Sirrah be gone, or I'll send you packing, I scorn both you and Mr. *Vavasor*: And he, the Defendant *Graunt* and others drew their Swords, and the Lord *Savile* furiously assaulted the Plaintiff, who had only his Hunting-pole to defend himself, chas'd him about the Field. call'd him Coward, and challeng'd him to fight with him. The Lord *Savile* was committed, fin'd 1000 l. and 250 l. damage to the Plaintiff, and to make him such other reparation as the Court should direct: *Graunt* fin'd 200 l. and if not able Lord *Savile* to pay it.

There being a special Verdict in a Cause between the Plaintiff and one *Jenkins*, touching Lands, the Defendants bought the said *Jenkins's* Estate therein, and had a Conveyance thereof to *Chambers* to *Dee's* use, fee'd Council, Attorney and Clerks; and after Judgment for the Plaintiff, prosecuted a Writ of Error in *Jenkins's* name; and agreed, that if at the end of the Suit, *Dee* did not pay *Chambers* what he had expended, *Chambers* should have the Land. The Defendants were both committed, fin'd 100 l. a-piece, and 30 l. damage to the Plaintiff.

Mich. 8 Car. The Defendants *Harrison* and *Spyer* publish'd a Libel, call'd, *Verses made of the purer sort*, to the disgrace of the Plaintiffs, whom all the Defendants confels'd to be of honest Life and Conversation. The Defendant *Tufston* got a Copy of them, publish'd

Ann. 1632.

lish'd it to divers in *Rye*, gave it to a Gentlewoman, and told her it was intended for the Plaintiffs. The Defendant *Martin* said he would bear out the Contriver, tho it cost him 100*l.* and that the Libel was true, for the Plaintiff *Smith* lay with the Plaintiff *Martha Osmanton*. The Defendants were all committed, *Martin* fin'd 500 Marks, and bound to his good behaviour; the other three fin'd 200*l.* a-piece, and 100*l.* damage to the Plaintiffs, and to acknowledge their Offences at this Bar and at *Rye*, in presence of the Plaintiffs, and the Mayor and Jurats.

Peterfon
Dean of
Exeter
vers. Tra-
vers Cler.
& al.
Conspiracy
to accuse
the Plain-
tiff of In-
continency.

The Defendant *Travers* conspir'd with the Defendants *Frost* and *Catharine Bampton* his Daughter to accuse the Plaintiff of Incontinency with the said *Catharine*. The said three Defendants committed, *Travers* fin'd 1000*l.* and 250*l.* damages to the Plaintiff, and to ask him forgiveness at this Bar and *Exeter* Assizes; *Frost* fin'd 500*l.* bound to his good behaviour, to be set on the Pillory at *Exeter* with a Paper on his Head, and there to ask the Plaintiff forgiveness; *Bampton* to be well whip'd at *Columpton* and through *Exeter*, then committed to the House of Correction for a year, and before Inlargement find Sureties for her good behaviour: The Records in this Cause, all but the Bill and Decree, and all Copies thereof to be burnt.

Peiham
Bar. vers.
Lunsford
jun. & al.
Riotous
hunting
and killing
Deer, &c.

The Defendant *Lunsford*, and the other Defendants, with Greyhounds and Weapons hunted and kill'd several Deer in the Plaintiff's Park: *Lunsford* gave one of the Keepers several Blows, another Defendant knock'd down the other Keeper, who while on the ground was run through with a Rapier; one of them with a Pistol swore he would shoot the Rogues, and that they should never come back if they follow'd them. *Lunsford* several other times hunted and kill'd the Plaintiff's Deer, term'd him Fool, and said he car'd not a farthing for him. *Lunsford* was order'd to be committed, fin'd 1000*l.* to be bound to his good behaviour, with Sureties of 10*l.* a-piece Lands in the Subsidy Book in 2000*l.* and being fled into another Kingdom, his Majesty to be mov'd for his Privy Seal to command him to come over by a limited time, which if he did not, his Fine to be doubled, and three years Imprisonment. The

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other two Defendants committed, fin'd 200*l.* a-piece, and bound to their good behaviour. All the Defendants to acknowledg their Offences at the Quarter Sessions in *Sussex*, and pay the Plaintiff 500*l.* and the Keepers 200*l.* damages.

8 *Car.*

The Defendants with 500 others assembled in that part of *Feckenham Forest* which upon the Disafforestation was allotted to his Majesty, and where his Farmers had made Hedges and Ditches three miles in length, and threw down about 1000 Perches of the said Fences; and the Sheriff and Justices making Proclamation for them to depart, they threw stones at the Sheriff's Company, hurt divers of them, and beat them back. The Defendants were all committed, fin'd 500*l.* a-piece, bound to their good behaviour, at their own Charges to make up the Ditches, Fences, and Hedges by a limited time, and at the Quarter Sessions for *Worcestershire* to acknowledg their Offences.

Art. Reg.
vers. Stew-
ard & al.
*Riotous de-
stroying In-
closures.*

Peter Bland being seiz'd of Lands of the Value of 230*l.* per annum, and possess'd of a personal Estate, in 1615. made a Will, and distributed the greatest part to his three Children and their Issues; and in 1621. conveyed his Lands to his Brother *John Bland* and the Defendant *Lownes*, and their Heirs in trust to sell the same and dispose of the Mony according to his Will, or in default of such Appointment to be distributed among his Children and Grandchildren, with a Clause of Revocation. In 1622. he made a second Will, and the said *Lownes*, *John Bland*, and Mr. *Baldwin* his Executors, and put it into a Box with three Locks and three Keys, delivering a Key to each Executor; whereby (as himself reported) he gave his Lands and personal Estate to his Children and Grandchildren. *Lownes* by a Letter written by the Defendant *Hoskins* to Mr. *Baldwin*, with *Peter Bland's* Name suspiciously subscrib'd, gets *Baldwin's* Key, and the Box was carried to *Lownes's* House; but what is become of the Will cannot be discover'd. Afterwards *Peter Bland* being very aged, weak in Body and Understanding, and guided by *Lownes* and *Hoskins*, made two other Wills, and seal'd some Conveyances to *Lownes's* use; and *Lownes* by practice with *Hoskins* got him to seal an Indenture dated 25 *Junii* 1 *Car.* where-

Herbert
Arm. & al.
v. *Lownes*
& al.

Fraudulent
procuring a
Deed and
Will.

Ann. 1632. by *Lownes*, in consideration of the former Convey-
 ance to his use, and of 1150 *l.* paid to *Lownes* by
Bland, covenanted to pay several Sums of Money to
 divers Persons; and then *Lownes* seal'd a Bond of 4000 *l.*
 to *Peter Bland*, for performance of Covenants: and
Bland seal'd and publish'd his last Will (tho dated June
 27) confirming the said Deed, and made *Lownes* and
John Bland Executors, but no Child or Grandchild
 privy, or Friend Witness thereunto. By this means
Lownes would have defeated all *Peter Bland's* Children,
 and by being Executor the Bond of 4000 *l.* was void.
Lownes and *Hoskins* were committed; *Lownes* fin'd
 1000 *l.* and *Hoskins* 300 *l.* and the Court confirm'd
 the Decree in Chancery, whereby *Peter Bland's* Chil-
 dren were reliev'd for his Estate; and Sir *Richard*
Minsal, *Lownes's* Council, who drew the Deed of 25
 June, for suffering himself to be instructed by *Lownes*,
 and nor by *Bland* himself, to whom he did often re-
 sort, and adding such Clauses therein, without ac-
 quainting *Bland* how prejudicial it was to his Children
 and Grandchildren, tho present at the Sealings, was
 committed, and fin'd 500 *l.*

Decree in
 Chancery
 confirm'd.
 A Counsel-
 lor punish'd
 for drawing
 a Deed by
 another's
 Instruction

Kilvert
 vers. Han-
 ger.

The Defendant, under colour of taking Exceptions
 to an Awardment made by the Plaintiff and another,
 put in writing a Libel against the Plaintiff, terming
 him a Wrong-doer, Deceiver, Briber, Judas, and
 Viper, and said he came to shew the Falseness of that
 base and shameful K. He was committed, fin'd 500 *l.*
 and to pay 500 *l.* damage, and acknowledg his Offence
 to the Plaintiff.

Best Pau-
 per vers.
 Neal Arm.
 & al.

The Defendant *Neale*, to get the possession of the
 Plaintiff's House, whereto he claim'd Title, and where-
 in the Plaintiff, his Wife, Children, and Mother dwelt,
 intending to starve them out, took away a Woman's
 Horse, as she was going with Food to them, turn'd
 her back on foot, and threaten'd her if ever she came
 with any more Food; whereby the Mother (being 80)
 was starv'd to death; the Neighbours not daring to
 relieve them for fear of *Neale*, who with others came
 with a Hatchet, and cut down three of the Doors of
 the House, and carried them away, reviling the Plain-
 tiff's Wife and Children; and another time beat off
 part of the Tiles of the House. *Neale* was committed,
 and fin'd 500 *l.*

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The Defendant having divers Mannors and Lands in the Country, was, for his residing in *London* contrary to his Majesty's Proclamation, committed and fin'd 1000*l*.

The Defendants *Gregory* and *John Rome* beat the Plaintiff aboard a Ship, being then a Head Constable. *Gregory* challeng'd him, threaten'd him for refusal, and the same day, arm'd with Sword and Pistol, with *John Rome* and six or seven others arm'd with Swords, came to the Plaintiff's House, and *Gregory* again challeng'd him to fight: Another said they came to fight, and would fight; and *Richard Rome* threaten'd to knock down the Plaintiff wheresoever he met him. The Constables demanded their Weapons, and upon refusal disarm'd *John Rome*; but *Gregory Rome* drew his Sword, and ask'd who durst come near him; and *Richard Rome* drawing his, they both went out of Town; and *Creese* a Constable and others going after them, *Richard* with a Staff, and *Gregory* with a Sword and Pistol cock'd, turn'd back upon them, presented the Pistol to *Creese*, and ran at him with the Sword. The three *Romes* were committed, and bound to their good Behaviour; *Gregory* fin'd 500*l*. the other two 400*l*. a piece. All to pay 100*l*. damages to the Plaintiff, and 40*l*. to *Creese*.

Term. 8 *Car*. The Defendant Sir *Kilian*, being Trevanion by Letters Patents Captain of the Castle of *St. Maures* in *Cornwal*, and having a Fee of three shillings per diem and power to elect a Lieutenant, a Porter, a Master-Gunner, and twelve Soldiers, whose Wages were to be paid quarterly to the Defendant, and he to pay the same; the Defendant did neither keep the Castle guarded with so many Soldiers, nor give those that guarded it their Proportion of Mony allow'd by his Majesty, but put the Mony in his own Purse. The Defendant was committed, fin'd 2000*l*. suspended from the Execution of his Place, till licens'd to execute it, and the Attorney General to call him to an account for the Mony receiv'd.

The Defendants several times hunted and kill'd the Plaintiff's Deer with Nets and other Instruments, in his Park call'd the *Worthy*. All the Defendants were committed; the Defendant *Rowland Poole* (who had denied

8 *Car*.Att. Reg.
vers. Pal-
mer Arm.Tapson
vers. Rowe
& al.ver. Vivian
Mil. & al.D. Berkeley
vers. Poole
& al.

Ann. 1633.
Killing the
Plaintiff's
Deer.

nied it upon Oath, and persuaded the others so to do) was fin'd 200*l.* bound to his good behaviour seven years, and at *Glocester* Assizes, standing in an eminent place with a Paper on his Head, declaring he had forsworn himself and persuaded others thereunto, to acknowledge his Offence, and ask the Plaintiff forgiveness. Two other Defendants fin'd 100*l.* a-piece, and bound to their good behaviour four years: and five more fin'd 50*l.* a-piece, and bound to their good behaviour three years. All seven to acknowledge their Offences at the Assizes, and submit to the Plaintiff; and all the Defendants to pay the Plaintiff 100*l.* damages.

Bacon
Arm. verif.
Anderson
Mil. & al.
Riot, and
Procurement
of it.

The Defendant Sir *Henry Anderson* bearing malice to the Plaintiff, for that he would not sell him the Rectory of *East Cowton*, threaten'd to set fire to his Hay; and the Defendant *Maultus* told him he would be undone by it. And meeting the Plaintiff in *East Cowton*, call'd him Skip-jack Fellow, bid him get him out of the Town, or he should be beaten out; and soon after the Defendant *Henry Anderson* came to him, and pick'd a Quarrel with him, and *Maultus* taking hold of his Horse-Bridle, struck him on the Breast with a Staff, and the Defendant *Green* beat him about the Neck and Shoulders with a Pitchfork; and the Plaintiff being got from them, *Maultus* call'd out to him to stay, for he had something to say to him before he went; and that he told him he should be beaten out of Town: and Sir *Henry Anderson* afterwards said he was not cudgel'd half enough. The Defendants were all committed; Sir *Henry* as an Abetter and his Son were fin'd 300*l.* a-piece; *Green* and *Maultus* 200*l.* and bound to their good behaviour a year; Sir *Henry* and his Son to pay their Fines if they not able, and 100*l.* damages to the Plaintiff.

Ann. 1633.
Proclamation
concerning
Prices
of Victuals
within the
Verge.

May 4, His Majesty being resolv'd on a Progress to *Scotland*, did, to prevent the exposing of those that should attend him to the Avarice and Exactions of Bakers, Brewers, Inholders, Butchers, and Sellers of Victuals, by his Proclamation command all Persons to keep such Prices, as are or should be assessed and rated by the Clerk of the Market of his Household, or his lawful Deputy, within and without their Liberties upon the presentment of Jurors.

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May 5, Another Proclamation issued, commanding, That no Person, during his Majesty's intended Journey to *Scotland*, or his Return, or in any of his future Journeys and Progresses, presume within the Verge of the Court to take up any Lodging without a Billet from his Majesty's Harbingers, nor shall his Majesty's Servants or others take any Carts, but what shall be deliver'd to them by his Majesty's Cart-takers or their Deputies.

Another touching his Majesty's Journey to *Scotland*, &c.

May 13, The King set forward from *London* towards *Scotland*, attended by several of the prime Nobility, and other Persons of Quality; and in his Progress took a view of a place at *Giddon* near *Stilton* in *Northamptonshire*, vulgarly call'd the *Protestant Nunnery*, and understood it was by the Institution of one Mrs. *Mary Farrar*, a Widow aged about 80 years. They frequented Prayers at certain hours, Morning, Noon, Evening, and Night-time; they were to eat and drink by measure; within the Chappel was a rich Altar, Crucifix, Candles of white and green Wax, and before they went to read Prayers, they bow'd three times before the Altar as they went up and came down; they had liberty to use any Vocation within the House, and to depart, if they had a mind to marry. At *Welbeck* in *Nottinghamshire* the King was sumptuously feasted by the Earl (since Duke) of *Newcastle*, which stood the Earl in some thousands of pounds. At *Raby-Castle* he was nobly entertain'd by Sir *Henry Vane*, late Ambassador to *Denmark* and *Sweden*: and at *Durham* by the Bishop Dr. *Morton*. At *Berwick* Mr. *Widdrington* of *Grays-Inn*, the Recorder, entertain'd his Majesty with a Speech to this effect: That his Majesty's presence brought as much Joy and Comfort to them all, as ever the loss of that Town of *Berwick* brought Sorrow to the *English* or *Scottish* Nation: That they need not represent to him the gloomy Cloud of their Pressures and Wants, the Mite they were to cast into his Treasury will quickly tell it him; but that Cloud is suddenly vanish'd by the radiant Beams of his Sun-like Appearance, by whose Approach those solitary Walls, that now despicable Town, have receiv'd their former Life, Lustre, and Vigour, as if this Year of his Majesty's Royal Progress were the Year dream'd

King sets forward for *Scotland*.

Protestant Nunnery.

Mr. *Widdrington's* Speech to the K. at *Berwick*.

on

Aug. 1633.

on by *Plato*, wherein all things were to return to their former Life, Splendour, and Excellency: That their Town had been the Delight, nay the Ransom of Kings, a true *Helena*, for which many bloody Battels had been fought, lost and regain'd several times; the strongest Fortress of his Kingdoms, yet upon each Discord banded as a Ball between them; a Town now as useless as Arms in time of Peace, yet may serve as a little Map of his great Kingdoms, as participating of the nature of both; a Town neither wholly regulated by *English* or *Scottish* Laws, but by Customs and Usages in some things different from both, yet rather inclin'd to *English* Laws, and more affecting *Scottish* Fashions and Language, altho now *English*, and so hath continued since the time of King *E. 4.* And they doubt not but his Majesty will graciously maintain those Privileges, Franchises, and Immunities granted them by the renown'd Kings of both these Kingdoms, from whom he was extracted, especially by his Royal Father: That his Majesty was now going to place a Diadem upon his Head; and their Prayers were, that not only that, but all his other Crowns, may be unto him Crowns of Roses, without the mixture of any Thorns; and that the Throne of King *Charles*, the Son of our *British* *Solomon*, may be like that of King *David* the Father of *Solomon*, establish'd before the Lord for ever.

K. enters
Scotland.

Comes to
Edinburgh.

June 12, The King was met at the Bound Road near *Berwick* by most of the Nobility of *Scotland*, and the Gentry of the adjacent Sheriffdoms, and several other of the Gentry of *Scotland*, among whom were a Troop of 600 *Berwickshire* Gentlemen, related to or Dependents upon the Earl of *Hume*, in green Satten Doublets and white Taffety Scarfs. At *Edinburgh* he was receiv'd by the Lord Provost, Bailiffs or Aldermen, and Citizens in their Formalities; and of the younger sort thirteen score were cloth'd in white Satten Doublets, black Velvet Breeches, and white Silk Stockings. At five several Pageants his Majesty was entertain'd with elegant Speeches: At the Pageant at the *Tolbooth* were represented in effigie all the Kings of *Scotland* from *Fergus* the First, who made an Oration of all his Successors, till *Charles* the 108th King, and prophesied that as many more should suc-

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Is crown'd.

Tuesday the 18th of June was the King's Coronation-day. *David Lindsey*, then Bishop of *Brechin*, preach'd the Sermon upon these words, 1 Kings 1. 39. *And all the People said, God save King Solomon.* It was observ'd, that *Dr. Laud*, then Bishop of *London*, was high in his Carriage; and (tho a Stranger) took upon him the ordering and managing the Ceremonies and Coronation; and for an Instance, *Spotswood* Archbishop of *St. Andrews* being plac'd at the King's right Hand, and *Lindsey* Archbishop of *Glasgow* at his left, Bishop *Laud* thrust *Glasgow* from the King with these words, *Are you a Churchman, and want the Coat of your Order?* (which was an imbroider'd Coat, which he being a moderate Churchman scrupled to wear) and put the Bishop of *Rosse* in his room.

Thursday the 20th of June the Parliament met; *Spotswood* Archbishop of *St. Andrews* preach'd the Sermon. The King made his Speech, and the Lords and Members of the Articles were chosen, which contrive and form all Acts that are to pass in Parliament. They consist of eight of the Clergy, eight of the Nobility, eight Barons, and eight Burgeses: The Noblemen elect the Clergy, the Clergy the Noblemen; the elect Clergy and Noblemen the Barons; and the elect Clergy, Noblemen, and Barons, the Burgeses. The Parliament pass thirty one publick printed Acts, besides 176 private Acts, gave the King very great Sums of Mony, and reduc'd Interest from 10 l. to 8 l. per cent. and gave the King the remaining 2 l. per cent. for three years.

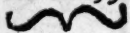
In this Parliament there was little or no difference, except what related to two Acts, the one entitul'd, *An Act anent his Majesty's Royal Prerogative, and Apparel of Kirkmen*; whereby they acknowledg'd the King's Sovereign Authority and Royal Prerogative over all Estates, Persons, and Causes, and ratified and perpetually confirm'd the Act of Parliament made in the year 1606. anent the King's Prerogative. And it was likewise enacted that the same Power should remain in the present King and his Successors, as was given to his Father by the Act of Parliament made in the year 1606. anent the Apparel of Judges, Magistrates and Kirkmen; whereby it was agreed, That what

The Parliament meet.

Lords of the Articles how chosen.

13 Noblemen, &c. dissent from two of the Acts.

Ann. 1633.



what Order soever his said late Majesty should prescribe for the Apparel of Kirkmen, and send in writ to his Clerk of Register, should be a sufficient Warrant for inserting the same in the Books of Parliament, to have the strength of an Act. But several Noblemen and others were not pleas'd to have the Apparel of Kirkmen join'd with the Prerogative, suspecting the Surplice to be intended; and the King being ask'd that Question, made no Answer, but took a List of all the Members out of his pocket, and told them he had all their Names there, and would know who would do him service, and who would not that day. However about thirteen Noblemen, and as many Barons and Burgesses declar'd, They agreed to that part of the Act concerning the Prerogative, but dissented from that part about the Apparel of Kirkmen. The King said he would have no distinction, but commanded them to say I or No: whereupon they dissented from the Act. The other Act was entitul'd, *An Act of Ratification of the Acts touching Religion*: whereby all Acts and Statutes made before anent the Liberty and Freedom of the true Kirk of God, and Religion then profess'd within that Realm, were ratified and confirm'd. As to this Act, the said dissenting Lords and Gentlemen declar'd, They agreed to the Ratification of the Laws anent the true Protestant Religion, as establish'd in Doctrine, and to an Act in King James VI's Reign, when Bishops were oppos'd; but now they were governing and included, and therefore they dissented as to that Act also. The Act about Ecclesiastical Habits much perplex'd those Dissenters; and a Writing was publish'd with this Reflection in it, how grievous it was for a King, by making of Votes, to overawe his Parliament; that it was a breach of Privilege, &c. This was drawn by one *William Hagg*, who fled for it, but being found in the custody of the Lord *Balmerino* (one of the dissenting Lords) he was by his Peers found guilty of concealing Treason, and condemn'd to lose his Head, but afterwards pardon'd.

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*Ld Balme-
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Dissenter)
condemn'd.*

*Grievances
of some Mi-
nisters of
Scotland.*

Before the Parliament sat, there was another Writing presented by Mr. *Thomas Hogge* (who stil'd himself Minister of the Evangel) to Sir *John Hay* Clerk of Register, in the name of himself and others of the

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the Ministry, containing certain Grievances to be presented to his Majesty and the ensuing Parliament, to the effect following: 1. Vote in Parliament was granted to Ministers provided to Prelacies but upon certain Conditions, one whereof was, That nothing should be propos'd by them in the name of the Kirk, without express Warrant and Direction from the Kirk, nor should they keep silence or consent to any thing prejudicial to the Liberty or Weal of the Kirk, under pain of Deposition; and another was, That they should give an account of their doings to the next general Assembly, and submit themselves to their Censure, and there seek and obtain a Ratification of what they have done, under pain of Infamy and Excommunication: some Ministers notwithstanding have voted in Parliament, in the name and to the prejudice of the Kirk, as if there were no such Conditions. 2. In the Ratification of the Acts of the Assembly held at *Glasgow Anno 1610.* which pass'd in Parliament *Anno 1611.* under the name of Explanation, several Articles and Clauses were omitted, and others inserted, contrary to the Acts and Constitutions of the Kirk; therefore they pray the Kirk may be liberate from such Omissions, Additions, and Alterations. 3. Notwithstanding from the time of Reformation till the year 1603. General Assemblies were held at least once in the year, Provincial Synods twice in the year, and Meetings for Presbyteries every week, and their Liberties ratified in Parliament *Anno 1592.* and in the Assembly at *Glasgow 1610.* when Voters in Parliament provided to Prelacies were made liable to the Censures of the General Assembly, the necessity of having General Assemblies was acknowledg'd; yet the liberty of holding General Assemblies is suppress'd, and the Order of Synods and Presbyteries confounded: They pray therefore that the said Act of Parliament, and all others made in favour of such Assemblies, may be reviv'd and ratified by this present Parliament. 4. Notwithstanding festival Days, private Baptism, private Communion, and Episcopal Confirmation of Children have been neglected by this reform'd Kirk, since the beginning of the Reformation; and by Act of Parliament 1567. such only were to be accounted Members

Ann. 1633. Members of this Kirk, as did participate of the Sacraments as then rightly ministr'd, which was without kneeling or immediate dispensing thereof to every Communicant by the Minister; yet Pastors and People adhering thereunto are nicknam'd Puritans, and threatn'd, altho in *Perth* Assembly it was declar'd, that none should be press'd with Obedience to the Act of that Assembly: They pray therefore a Ratification of the Acts of Parliament made before that Assembly, and that they may be freed from such aspersions, and the danger of the Act of *Perth*. 5. Altho it be determin'd by General Assemblies, what Oaths Ministers should take at their Admission or Ordination, yet there is now a new Oath impos'd with Subscriptions to certain Articles, without warrant from any Assembly or Act of Parliament: They pray all such Oaths and Subscriptions may be discharg'd. 6. Ministers are suspended, silent'd, and depriv'd for matters merely Ecclesiastical, before other Judicators than those establish'd by authority of the Country and Kirk: For which they pray a remedy for the future, and those so displac'd may be suffer'd to serve in the Ministry. But this Petition was rejected by the Lords of the Articles.

Rejected by the Lords of the Articles.

Parliament dissolv'd, and the King makes a short Progress.

His extreme danger.

Friday the 28th of June, the Parliament was dissolv'd. The King stay'd on Saturday and Sunday, and shew'd the Dissenters an unfavourable Countenance. Monday the King took his Progress to his Palace at *Linlithgow*, Tuesday to *Striveling*, where one of the Provosts being a Dissenter was not admitted to kiss his Hand. The Nobility and Gentry of *Fife* were prepar'd to give the King a noble Reception, but many of them being Dissenters, the King took another way and avoided them; having in his Progress visited *Dunfermlin*, *Falkland*, *St. Johnston*, &c. In his Return July 10 he took Boat at *Brimt Island* to come to *Leith* (being seven Miles over) in a calm Season about Midday; but presently after arose a violent Tempest (tho none a Land) to the great hazard of himself and others. The King with much difficulty pass'd to a Man of War of his in the Road, and landed at *Leith* after great danger; one of the Boats with the King's Plate was overset, and near twenty Persons perish'd; and three

Persons were Holywicks.

Those who the condition in various Wine to free then those that the King any reason and the the Parliament Supply, on'd of should jesty.

In the first two The He Whether mons, a Prayer a Table be Whether once a y whole T all the mon Pra to such o thereunto ticks? W their Min cens'd, an catechize,

Persons

Persons sitting upon the Keil, which was upmost, were sav'd. On the 11th of July his Majesty staid at *Holyrood-house*, and the next day set forward for *Berwick*, where he arriv'd on the 16th.

The Marquis of *Hamilton* was one of the Noblemen who follow'd the King into *Scotland*, and assisted at the Ceremony of his Coronation there. His Expedition into *Germany* had involv'd him and his Friends in vast Debts; yet his Lease of the Customs of the Wines in *Scotland* was a good Security, and fully able to free him of that Burden: But the Earl of *Traquair*, then Treasurer Deputy, suggesting to the King, that those Customs were the surest Monys he had, and that the Treasury would signify little without them; the King mov'd the Marquis about it, who without any reluctance surrender'd up his Lease to the King; and the King in recompence thereof gave the Marquis the Collection of the Taxation, which the last Parliament of *Scotland* laid on the Country for the King's Supply, with the Imposition herein above mention'd of 2 l. per cent. for Interest Mony, till he should be paid all was due to him from his Majesty.

In *June* came forth in print Articles to be inquir'd of by the Churchwardens, &c. in the primary Visitation of Dr. Neal Bishop of *Winchester*, they being first sworn to make a true and impartial Presentment. The Heads of what they were to inquire of were, Whether they have the Book of Constitutions or Canons, a Parchment Register Book, Books of Common Prayer and Homilies? &c. Whether the Communion-Table be so plac'd, as the Minister may be best heard? Whether the Minister read his Majesty's Constitutions once a year, and uses to pray for the King with his whole Title, and for Archbishops and Bishops; observe all the Orders, Rites and Ceremonies in the Common Prayer, and kneeleth himself, and administers to such only as kneel at the Sacrament? Whether he thereunto admits any notorious Offenders or Schismatics? Whether Strangers come to their Church, and their Minister uses the Cross in Baptism? Whether licenses'd, and by whom? Doth he wear the Surplice, or catechize, or marry without Banes ask'd? Doth he

9 Car.
He returns
to Berwick.

M. Hamilton waited
on the K.
at his Coronation.

He parts
with his
Lease of the
Customs of
Wines.

Articles of
Inquiry in
the Bp of
Winchester's
Visitation.

Ann. 1633. keep the Perambulations, and every six months denounce Excommunicate Persons? Hath he admitted any such into the Church? Is he a Favourer of Recusants, suspected not to be sincere in Religion? Is he noted to be incontinent; a Tavern or Ale-house Haunter, a common Gamester or Player at Dice &c. The rest of the Articles concern'd Schoolmasters, Ecclesiastical Officers, Parishioners, and others of the Layety: But those Articles put forth by several Bishops in 1634 and 1635. after the first Metropolitcal Visitation, were of a far higher strain.

ABp Abbot dies, and the Bp of London translated to Canterbury; who is offer'd to be a Cardinal.

In the beginning of *August* died *Dr. George Abbot*, Archbishop of *Canterbury*, and on the 6th of that month the King gave the Archbishoprick to *Dr. William Laud*, Bishop of *London*. About the same time the new Archbishop (as he reports of himself) had a serious Offer made him to be a Cardinal; and the same Offer was about a Fortnight after repeated to him: But his answer was, That somewhat dwelt within him, which would not suffer that till *Rome* were other than it is. The Archbishop (as he himself saith) acquainted the King both times therewith, and with the Person.

Proclamation concerning Bows and Arrows.

12 *August*, a Proclamation issued, giving notice, That Bows and Arrows were formerly found serviceable Weapons for War, whereby great Victories had been gotten; That they are enjoin'd by several Statutes: and the King had authoriz'd *William Neal* an antient Archer to instruct the Trained Bands in a new Invention of his for the use of the Bow and Pike together.

Another concerning Tobacco.

Another Proclamation issued 13 *August*, taking notice that the Plant or Drug call'd Tobacco, scarce known to this Nation in former times, and in this age usually brought in as a Medicine, had been of late brought hither in great Quantities; therefore to prevent the immoderate use thereof, his Majesty commanded, that none should vend or utter it by Retail, but such as should be licens'd thereunto according to the Rules and Directions set down in the said Proclamation.

A Decree of Star-chamber concerning Soap-makers.

In pursuance of a Censure of the Court of Star-chamber, 10 *May* last, relating to the Soapmakers a Decree was made by that Court, dated *August* 23 upon the Information of the Attorney General Mr

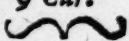
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Noy, reciting his Majesty's Letters Patents, dated 12 Decemb. Ann. 7. granted to Roger Jones Esq; and others for fourteen years, for the sole making of Soap with such Materials as were by them newly invented, and had not been formerly or ordinarily us'd about the same; and reciting other Letters Patents, dated 20 January Anno 7. for incorporating several Persons of Quality by the name of Governor, Assistants, and Fellows of the Society of Soapmakers within the City of Westminster in the County of Middlesex, to have perpetual Succession; and that the Powers and Authorities granted to the said former Patentees had been by them assign'd to the said Governor, Assistants, and Fellows, and their Successors. In respect whereof the said Governor, Assistants, and Fellows had by their Indenture dated 3 Maii Anno 8. covenanted with his Majesty to perform divers things therein mention'd, and for furnishing this Kingdom with sufficient Quantities of sweet Soap at reasonable Prices, not exceeding three pence per pound; and his Majesty for trial of the goodness thereof had by other Letters Patents dated 8 Junii Anno 8. created an Officer to be call'd the Assay-master of Soaps, to be made by the said Governor, Assistants, and Fellows, and thereby appointed how he should execute his said Office without any Trouble or Charge to his Majesty's Subjects. And intending to advance the native Commodities of this Realm, and to save the Treasure thereof, which was spent in importing foreign Materials for making of Soap, and for preventing or punishing all Frauds or Deceits practis'd by Soapboilers; he had by his Proclamation dated 28 June Anno 8. commanded the said Governor, Assistants, and Fellows, and all others, not to use any other Oil in making that Soap, than Oil Olive and Rape Oil, nor to import any unsweet or unserviceable Soap; or to put to sale or vend any Soaps, Pot-ashes, Soap-ashes, Berrillia, or Soade, before they shall be assayed by the Searchers, yearly to be assign'd by the said Governor, Assistants, Fellows, and Assay-master, or some of them, and be mark'd by them or their Deputies. Notwithstanding all which, divers Soapboilers and about London have oppos'd the said several Letters Patents and Proclamation, made great Quantities

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of Soap of Fish-Oil, oppos'd the Searchers and Assay-master, usurp'd the Liberties of a Corporation in holding Assemblies, where they set Prices of their Soap, and appoint what quantities of Fish-Oil every one should spend weekly or monthly, and what quantity of Soap should be made by each. For which Offences his Majesty's said Attorney, *November 22. Anno 8.* exhibited an Information against divers of them, whereupon they were justly censur'd, and disabled to use the Trade of Soap-boiling: Nevertheless divers Persons have since taken upon them the said Trade, as well in the Houses of the Persons so sentenc'd and disabled, as in other Places, to the eluding of the said Decree and Sentence. His Majesty's said Attorney therefore pray'd, That in a Case of this extraordinary nature, this Court would settle and establish such Order for the Government of this Trade, as may prevent those Abuses: Whereupon this Court hath order'd, 1. That the said Governor, Assistants and Society, shall use all diligence to perfect their Undertaking with his Majesty. 2. That on the last day of every *Michaelmas* and *Easter* Term, they certify this Court, whether the Standard be duly renew'd and the Soap made according to the Goodness of that Standard. 3. That the Assay-master search and mark all the good Soap, and refuse to mark that which is deficient or not answerable to the Standard, and none shall sell that which is not so mark'd; nevertheless this Court, if it hereafter appear to them, that there is for any other use, than washing of Linen, occasion for Soap of a less goodness and lower price, will give such further direction therein as is fit. 4. It appearing that the Company have brought the making of Soap with the Pot-ashes and other Materials of this Kingdom, and other his Majesty's Dominions, to that perfection, that it exceeds the best *London* Soap, and undertake to sell the same after the rate of Three Pounds Four Shillings the Barrel, viz. Three Pence the Pound; no Soapmaker shall sell the best soft Soap for above the said rate or price, under pain of the Censure of this Court; but if the Prices of the Materials shall rise, this Court will take such order therein as shall be fit. 5. This Court being fully satisfy'd, that the Persons

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formerly censur'd, do use all the indirect means they can to oppose the Reformation of their own Abuses; and conceiving those other Persons, or most of them, who since the 22d of *Novemb.* last, on which day the said Information was exhibited in this Court, have set up a Trade of Soap-making (which before they us'd not) in the Houses, and with the Vessels and Stock of the Delinquents so censur'd as aforesaid, by some secret Agreements and Compact with them, to elude the Sentence of this Court: It's therefore decreed, that no Person, who on the said 22d of *Novemb.* last did not use the said Trade, nor any other Person, who by his Profession or Apprenticeship is capable of using that Trade, shall continue or set up the same, until this Court receive satisfaction of the justice of his pretence thereunto, and of the fitness of the place where he intends to exercise the said Trade, and that he doth it for himself, and not for any of the said Delinquents. 6. This Court doth recommend to the care of the said Governor and Company, those few Servants and Workmen formerly employ'd by the said Delinquents, or some others in Soap-making, to imploy them in their Works; which if the Company fail to do, this Court will take course for their relief. 7. The Assay-master and Searchers, or their Deputies, may from time to time with a Constable, go into the Houses, Work-houses or Cellars of Soap-makers, and search for and assay all Soaps made, and Oils and other Materials for making thereof, and none to oppose them. There being within these few years no soft Soap made in this Kingdom, but in and about *London, Westminster* and *Bristol*; it is order'd that the Governor and Company do erect and continue their Work-houses, or within one mile of *London* or *Westminster*: And that no other Soap-maker do erect any Work-houses for making Soap, in or within a mile of *London, Westminster* or *Bristol*, or in such other Places as this Court shall allow of; and notice shall be given by other Soap-makers to the Governor and Company, or Assay-master, where their Work-houses are or shall be erected, before they use the said Trade there. 9. All Soap-boilers and Soap-makers, not of the Company, shall be under the survey, rule and government of the said Company

Ann. 1622. and the Officers thereof. 10. There shall be and continue of the said Company thirty Persons at the least; and all Offenders against what is herein contain'd, shall be punish'd by this Court, according to the quality of their Offences.

An Order to suppress Ales and Revels in Somersetshire.

Oppos'd by the new Arch-Bp of Canterbury.

Judge Richardson commanded to revoke his Order.

Arch-Bp's Letter.

The Lord Chief Justice *Richardson* and Baron *Dentham*, having at the Assizes for the County of *Somerset* made an Order, reciting, that several Orders had been formerly made by the Judges of Assize for the suppressing of all Ales and Revels: Now the said Orders were confirm'd by the said Judges, and they again order'd, That Revels, Church Ales, Clerk Ales, and all other publick Ales should be utterly suppress'd; and that the Clerk of the Assizes should leave Copies hereof with the Minister of every Parish, and give a Note under his hand, that he should publish it yearly within his Parish the first Sunday in *February*, and the two Sundays before *Easter* yearly. But the Archbishop of *Canterbury* hearing of this Proceeding of the Judges in Church-Affairs, and imposing upon the Ministers to publish their Order, without the consent of the Bishop of the Diocess, complain'd thereof to the King; and the Chief Justice being summon'd to attend the Council, alledg'd for himself, that the Order was made at the request of all the Justices of Peace upon the Bench, and upon view of divers antient Precedents: Nevertheless he was commanded to revoke his Order, and upon this occasion the Archbishop *Octob. 4.* writ to the Bishop of *Bath and Wells*, complaining that the Order had been publish'd by the Ministers without his Lordship's Privy; that this was done on pretence some Disorders had been committed at the Feasts of the Dedications of Churches, commonly call'd the Wakes; by which Argument, any thing that is abus'd may be quite taken away: That his Majesty was not well pleas'd with the carriage of the *Ld Ch. Justice Richardson* in this business, and conceives (very rightly) that those Disorders may be prevented by the Justice of Peace, and the Feasts themselves left to be kept for the neighbourly Meeting and Recreation of the People of which he would not have them be bar'd under frivolous Pretences: That his Majesty hath been inform'd the Humorists much increase in those Parts, and the

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since warning given, there have not been there any noted Disorders at those Feasts; but for his better satisfaction, he would be speedily inform'd by him (the Bishop) how those Feasts have been order'd. The Chief Justice after his reproof at the Council-Table, did at the next Assizes inform the Justices of Peace, Grand Jury and Country, that those good Orders for suppressing Wakes and Revels, wherein he thought he had done God, the King and the Country good Service, were to be revok'd by his Majesty's expresse Command; in pursuance whereof, he did, as much as in him lay, revoke this and all former Orders upon that occasion, and caus'd the Clerk of the Assizes to enter the same.

The Justices of Peace were troubled at this Revocation, and drew up a Petition to the King, subscrib'd by the Lord Pawlet, Sir John Stawell, Sir Ralph Hopton, Sir Francis Doddington and divers others, shewing the great Inconveniences would befall the County, if those Meetings of Church Ales, Bid Ales and Clerk Ales, condemn'd by the Laws, should be set up again; but the Delivery thereof was prevented by the coming forth of the King's Declaration concerning lawful Sports on the Lord's day after Evening Prayer, dated 18 Octob. which was to this effect.

Justices of
Peace trou-
bled at
the Revo-
cation.

That King James in his return from Scotland, coming thro Lancashire, and finding his Subjects debar'd from lawful Recreations upon Sunday, after Evening Prayer and upon Holidays; and considering that by this means the meaner sort, who labour hard all the Week, should have no Recreations at all: And after his Return, seeing his Subjects in other parts suffer in the same kind, did in the year 1618, publish a Declaration of this Tenor, viz. Whereas the last year, upon his Return from Scotland, he publish'd his pleasure touching the Recreations of his People in those Parts, he commands these his Directions (with a few words added to the former) to be publish'd to all his Subjects; that in his Progress thro Lancashire, he rebuk'd some Puritans and precise People for their prohibiting and punishing his People for using lawful Recreations and honest Exercises upon Sundays and other Holidays, after the Afternoons Sermon or Service; that two sorts

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of People in that Country, Papists and Puritans, had maliciously traduc'd his Proceedings. Now to vindicate his Reputation, and that his good People in that Country be not misled, he hath thought good to make his Pleasure known to them, That at his first Coming to this Crown, he was (too truly) inform'd; that *Lancashire* more abounded in Popish Recusants than any County in *England*, and hath continu'd so; till now of late he finds there is some Amendment, which made his Majesty the more sorry, when with his own Ears he heard the general Complaint of the People, that they were barred from all lawful Recreations upon the Sundays, after the ending of all Divine Service, which produces two Evils: 1. It hinders the Conversion of many, whom their Priests persuade, that no honest Mirth or Recreation is lawful in the Religion the King professeth. 2. This Prohibition barreth the Common People from using such Exercises as may make their Bodies more able for War, and instead thereof sets up Tipling and Drunkenness, and breeds discontented Speeches; for when can the common People have Recreation, if not upon Sundays and Holidays? His Majesty's Pleasure therefore is, that the Laws of the Kingdom and Canons of the Church be observ'd, and his People barred of no lawful Recreation, which tends not to the breach thereof; and that the Bishops, inferior Churchmen and Church-wardens instruct the ignorant, convince those misled in Religion, and present those that will not conform, and the Judges and Justices to put the Laws in execution; and that the Bishops take the like order with the Puritans and Precisians, constraining them to conform or leave the Country, according to the Laws of this Kingdom. His Pleasure likewise was, that after Divine Service his People be not disturb'd or discourag'd from any lawful Recreation, as Dancing either Men or Women, Archery for Men, Leaping, Vaulting, having of May-games, Whitsun Ales, Morrice Dances and Maypoles, so as it be without impediment or neglect of Divine Service; and Women may carry Rushes for decorating the Church as formerly; but Bear and Bull-baiting, and Interludes on Sunday, and Bowling at all times in the meaner sort was prohibited; and known Recusants,

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fants, and those that are not present at Church before their going to the said Recreations, were debar'd this Liberty; and such as use those Exercises before the end of all Divine Service were to be punish'd. His Majesty likewise commanded, that every Person should resort to his own Parish Church, and each Parish by it self to use such Recreation, but no Person to carry any offensive Weapons with him; and this Declaration was to be publish'd by order from the Bishop thro all Parish Churches, and the Judges and Justices of the Peace to be inform'd hereof. Now his present Majesty (K. Charles) doth ratify and publish this his Blessed Father's Declaration, the rather, for that there hath been of late in some Counties, a general Forbidding, not only of ordinary Meetings, but of the Feasts of the Dedication of Churches, commonly call'd Wakes, which his Pleasure is, shall with others be observ'd; that the Justices of Peace prevent or punish all Disorders, and that the Justices of Assize see that none be troubled in or for their lawful Recreations; he commands all his Judges, Justices of Peace, Mayors, &c. to take notice hereof, and that Publication hereof be made by order from the Bishops thro all Parish Churches. But this Declaration prov'd a snare to many Ministers, otherwise very conformable, several who refus'd to read the same in the Church, being suspended or silenc'd.

The Bishop of *London* lately translated to the Archbishoprick of *Canterbury*, advis'd the King to a Reformation in the Church of *Scotland*, and in his Majesty's Name sent the following Articles, dated 8 Octob. 1633, and Letter to the Bishop of *Dumblane*, Dean of the Royal Chappel there: The Articles were, That the Dean of the Chappel and his Successors shall assist the Archbishop of *St. Andrews* at every Coronation, and shall keep the Book of the Form of his Majesty's Coronation lately us'd in a little Box, and laid up in a Standard; that there be Prayers twice a day with the Quire according to the *English* Liturgy, until another be made; that a Communion be held in the said Chappel there the first Sunday of every Month, and all to receive kneeling; that the Dean and his Successors come to Prayers there on Sundays and Holidays in his Whites,

*Articles
for the K's
Chappel in
Scotland.*

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Whites, and preach so when he preacheth, and be not absent thence but upon necessary Occasions; that the Privy Council and others in the Articles nam'd, receive there once in every year at least, and that kneeling; and the Dean to make Report thereof to his Majesty, and if any refuse, in what manner, and why he refuses; that the consecrated Copes be inventoried and kept by the Dean in a Standard, and us'd there at the Sacrament.

The Letter.

The Letter of the same date was to command Obedience to these Articles, and that he certify to the Lords of the Privy Council, if any shall not communicate in the Chappel Royal in such manner as was formerly appointed them. The Royal Chappel at *Edinburgh* being thus order'd, was declar'd to be a Pattern of the intended Reformation to all Cathedrals, Chappels and Parish-Churches in *Scotland*. Afterwards in this year and the year 1634, there pass'd several Letters between the Archbishop and Bishop *Balentine*, for promoting this Design. The Archbishop wrote to him for a Note who conform'd and who not, inform'd him of his missing the Bishoprick of *Edinburgh*, for his omission of Prayers in the Chappel according to the *English* Liturgy; but afterwards in another Letter gave him Thanks for his Resolutions about ordering the King's Chappel, and wearing his Whites, &c. And in another Letter thank'd him from the King for the solemnity of the late Communion, hoping that the other Bishops were in their Whites, that the envy of the Vulgar might not fall only on him. And afterwards in *September* 1634, the Archbishop caus'd the King to sign a Common-prayer Book for the use of the Church of *Scotland*, and gave order to the Bishops of *Scotland* to compile certain Canons for the Government of the Church there, which Liturgy and Canons were to be impos'd on that Church by Regal and Episcopal Authority, without consent of Parliament or of a General Assembly.

King's Letter to ABP of Canterbury.

About this time the King writ to the Archbishop of *Canterbury*, to this effect; That nothing more conduc'd to the advancement of true Religion, than the strict Observation of such Canons as concern'd those who are to take Orders, especially that no man be made a Priest

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Priest or Minister without a Title: He requires him to acquaint the Bishops with his Resolution, that they shall observe that Canon; and if any presume to do the contrary, he shall be censur'd in the High Commission Court, as the Canon enjoins, *viz.* to maintain the Party till he give him a Title.

9 Car.

In pursuance of this Letter, the Arch-bishop requir'd the Bishops not to give Orders to any, but such as have a Title for their maintenance, according to the Canon, *viz.* 1. A Presentation to some Preferment. 2. Or a Certificate that he is provided of some void Church. 3. Or a petty Canon's place. 4. Or a Fellowship in a College. 5. Or a Conduct there. 6. Or a Master of Arts of five years standing. 7. Or the intention of the Bishop that ordains, shortly to admit him to some Benefice or Curate's place then void. And (said the Arch-bishop) I think the Canon intends no Curate shall be put off at pleasure, but only for such a Crime as might deprive him of a Benefice. By these Rules no Lecture or Chaplainship to any Nobleman's Family was admitted a Canonical Title.

The Dean and Chapter of *St. Pauls*, who were affirm'd to be the proper Ordinaries, having caus'd the Communion-Table in *St. Gregory's Church*, which adjoin'd to that Cathedral, to be remov'd from the middle of the Chancel to the upper end, and there plac'd Altarwise, after the Pattern of the Mother Church; and five of the Parishioners appealing to the Court of Arches, on pretence that the Book of Common Prayer and 82d Canon, gave a liberty to place it where it might stand with most convenience: This matter was heard before his Majesty in Council the 3d of November, where his Majesty declar'd, that such liberty of placing the Communion-Table was left not to the Parishioners, but to the Judgment of the Ordinary, and commanded the Dean of the Arches, who was then attending, to confirm the said Order of the Dean and Chapter.

Communion
Table in
St. Gregory's Church

William Noy the King's Attorney General, and the famous Lawyer of that Age, died, and Papers were put upon Posts, reflecting on him, that there was found in his Head a Bundle of Proclamations, in his Maw Motheaten Records, and in his Belly a Barrel of Soap.

Mr. Noy
Attor. Gen.
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Ann. 1633.

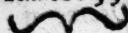
Judges
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Complaint being made to the Privy Council, that the Prices of all sorts of Victuals and Horsemeat were grown to excessive rates, an instance whereof was given by the Officers of the Greencloth, in several Provisions for his Majesty's House: Sir *John Banks*, then Attorney General, was order'd upon conference with such of the Judges and the King's Learned Council as he should think fit, and upon perusal of the Laws and Statutes, to report to the Board his Opinion concerning the same; which being done, the Attorney presented to the Court of Star-chamber the Certificate he had obtain'd from the Judges, and pray'd the same might be there record'd, and the Particulars thereof decreed to be observ'd; which Certificate, subscribed by eleven of the Judges, was to this effect, That ingrossing (an Offence at the Common Law) is a great Cause of the raising of the Prices of Victuals, and the Chandlers are great Offenders therein, who buy up great quantities of Grain; that Taverners dress Flesh and Fish, and vend the same at excessive rates, whereas by Law they are to sell nothing but Wine and Bread to eat with it; that Bakers sell their Bread at 14, 15 and 16 to the dozen, whereas they should not sell above 12; they wish Ordinaries may not exceed Two shillings a meal, and Taverners and Ordinary-keepers may not suffer unlawful Games; that upon hearing of divers Justices of Peace and Innkeepers, they conceive (the present Prices of Hay and Oats consider'd) six pence a day and night for Hay, and six pence for a Peck of Oats, *Winchester* Measure, is a competent rate to be given to Innholders, without paying for Litter; and if Innholders exceed, they are punishable, as exacting excessive Prices; for a Horse coming into an Inn in the day time, a Penny; but if he eat Hay, Two pence: That in and about *London* there are many petty Ostries, which entertain in By-corners the Horses of suspected Persons, and have not Lodging for Travellers, whereby great inconveniences happen and great prejudices to the Innholders, who are bound to lodg their Guests, and are answerable for their Goods; that there are divers Ingrossers of Hay to sell again; these are punishable by the Common Law. Which Certificate the Court

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caus'd to be recorded, and decreed, That the Justices of both Benches, Barons of the Exchequer, Justices of Assize, and Oyer and Terminer, and Justices of Peace, do cause Inquiry to be made of Ingrossers of all sorts of Victuals and Hay, and see them severely punish'd; that the Attorney General exhibit Informations in this Court against such as shall come to his notice; that no Chandler buy Corn, Grain, Meal or Flower to sell again; that no Vintner sell any Flesh, Fish or other Victuals except Bread; nor by himself, or any other, set up the Trade of a Cook in his House, or in any House adjacent, nor suffer any Victual, except Bread, to be brought into his House to be eaten by his Guests; that no Baker shall sell Bread at other rate than 12 or 13 at the most to the dozen; that Ordinary-keepers shall take no more than Two shillings a man for a meal, and Eight pence for each Servant, nor above that rate for Wine or any other thing; nor he nor any Taverner or Victualler, shall suffer Dice, Cards, Tables, or other unlawful Games in his House, nor shall the Groom Porter's Licence excuse them; that for the present the Rates before specify'd for Horsemeat shall be observ'd by the Innkeepers, within the Cities of *London* and *Westminster*, and within ten miles distance; that no Innkeeper within the Realm shall exceed those Rates; and where Grain and Hay are sold at less Prices, the Rates shall be accordingly. This shall continue in *Middlesex*, till it shall appear to the Justices of the *King's Bench*, and in other Counties to the Justices of the Peace, that because of the increase of Prices, greater Rates are to be permitted, and thereupon other Rates shall be set: And the Justices of the *King's Bench*, and Justices of Peace in other Counties, shall yearly or oftner declare the Prices and Rates for Horsemeat to be taken by Innholders, which they are to observe, and the Offenders to be punish'd severely. And that the Keepers of petty Ostries may not be undone by their suppression before their store be spent, the Justices of Peace of *London* and Suburbs, *Westminster*, *Southwark*, *Middlesex* and *Surry*, shall inquire of all petty Ostries within such Cities, Boroughs, and Suburbs, and Places distant, not above two miles, what Provision of Hay, Oats and Provender remain in their hands un-
spent,

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spent, and command them to make no further Provision, and none after the Provision in his Hands are spent shall keep such Ostries: Which Decree of the Court of Starchamber, the King by his Letters Patents, dated the 14th of *Decemb.* ratify'd, confirm'd, and commanded to be put in execution, and publish'd at the Sessions of the Peace throughout *England*; and that the Starchamber Judges, Justices of Assize, and Oyer and Terminer, and Justices of Peace, should proceed against the Offenders.

His Majesty intending to call a Parliament in *Ireland*, the Lord Viscount *Wentworth*, Deputy of *Ireland*, 22 *Jan.* writ to the King to this effect, That altho the calling of a Parliament there (where nothing is propounded as a Law before it receives allowance from his Majesty under his Great Seal) is at no time so hazardous as in *England*, where there is a Liberty to offer every thing in their own Time and Order, and this subjection is ever to be held as a sacred Prerogative; yet is the Proposition always weighty, and it's necessary to be consider'd, whether the present conjuncture of Affairs doth now advise a Parliament? and after a serious Discourse with himself, his Reason persuades him for the assembling thereof. The Contribution from the Country for the Army ending in *Decemb.* next, his Majesty's Revenue will fall short 20000 *l. per annum* of the Charge it is burden'd withal, besides the vast Debt of 80000 *l. Irish* upon the Crown, which yearly payments alone are impossible, in time, to be supply'd but by Parliament; and to pass to ways extraordinary, before an attempt at least to effect it with ease, were to love difficulties too well; and it may seem as well Vanity to affect them, as Faintness to bow under them when they cannot be avoided. In the next place, the Country is grown much more civil and rich, since the Accession of his Majesty's Father to the Throne, and all his Majesty hath from them is issued out again among them for their Protection and Safety, without any considerable Reservation. The Benefit of this great Charge sustain'd, and of this great Debt contracted, hath hitherto been entirely theirs. There hath been but one Subsidy all this time, and no other supply but this Contribution, in exchange whereof

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whereof his Majesty's Princely Bounty had return'd them Graces as beneficial to them, as their Mony was to his Majesty ; who modestly calling upon them now for a Supply, they are not to deny it in Wisdom, good Nature and Conscience ; and if they should not conform themselves to his Gracious Will, they were inexcusable, and the Regal Power may the more warrantably be hereafter extended, for recovering his Majesty's Revenues thus lost. Next, the frightful Apprehensions they are under, lest the Quarterly Payments towards the Army, continu'd now almost ten years, might turn to an hereditary Charge upon their Lands, incline them to give any reasonable thing to secure them from that Fear ; and therefore, *Dum dolet accipe*. Lastly, should they cast from them so mighty Obligations, which he could not fear, the general Peace abroad gives his Majesty the more power to chastise such a Forgetfulness, and to enforce from them other and better Duties than these. For the time of their Meeting, he advises it should not be put off longer than *Easter* or *Trinity Term* at farthest, for these reasons : The deferring the Improvements mention'd in his dispatch to the Lord Treasurer, should the Parliament not answer expectation, may be of much disadvantage ; and to enter upon that work before, would be an Argument for them to scant their Supply. Again, a Breach by the Parliament would prejudice less thus than in Winter, having six months to turn our Eyes about ; whereas otherwise, the Contribution ending in *Decemb.* next, we should be put upon an instant of time to learn our Lesson at first sight : Then the calling of a Parliament, and determining the Quarterly Contributions, falling out much about the same time, may make them apprehend a necessity of a present Agreement, and embolden them to make their own Conditions ; and Conditions are not to be admitted with any Subjects, much less with this People, where his Majesty's absolute Sovereignty goes much higher, than it is taken perhaps to be in *England*. Lastly, it being uncertain what humor the denying of any of the Graces they expect from his Majesty might move in their Minds, he advises to make two Sessions of it ; one in the Summer for his Majesty's Supply, the other in the Winter for those Graces

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Graces his Majesty shall think fit to grant. If objected, that it might render fruitless the intended Improvements upon the Concealments, and prejudice the Plantations of *Connaught* and *Ormond*: 'Tis answer'd, the first may be help'd by a short Law propounded in his dispatch to the Lord Treasurer; and the last, if no other Law pass the first Session, is sufficiently secur'd. Then it is to be foreseen what his Majesty will demand. And he advises, that at the first opening of the Parliament, his Majesty promise two Sessions, one for the payment of his Army and striking off the Debts of the Crown, the other in *Michaelmas* Term for the enacting wholesome Laws; and declare, he expects it should be observ'd, and himself wholly intrusted by them, which they ought to acknowledg with thankfulness to be due to his Majesty, when they call to mind how he was content to take 120000 *l.* in six years, which was to be paid in three, and in the mean time doubled his Graces towards them. And seeing the Army had been represented in a manner from the Body of that whole Kingdom to be of absolute necessity, it consisted not with his Majesty's Wisdom to be so improvident or forgetful, as to leave that pillar of his Authority and their Peace unsettled, for continuance at least one six months before their Contribution ended: That therefore his Majesty was well assur'd they would presently grant three Subsidies to be paid in three years, to disengage the Crown of 80000 *l.* debt, and the Quarterly Payments of the Army four years longer, in which time it was hop'd some expedient might be found out to maintain the Army, without further charge to them; which Law pass'd, they should have as much leisure as they could desire to enact for themselves, either then or in Winter: But if they made difficulty to proceed in this manner, other Counsels must be thought on, without further reliance on them. That he would not flatter himself with hopes that all this would be granted, but it's probable that to lay asleep (as they think) the Contribution, the continuance whereof they dread above any earthly thing, they may be drawn to three Subsidies, which alone would keep the Army on foot, during that time, and will almost discharge the Crown-debt besides: For the

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Contribution being but 20000 *l.* per annum, and each Subsidy (he hop'd) yielding 30000 *l.* there will be 10000 *l.* for three years over and above the Establishment, which 30000 *l.* profitably issued might with Honour to his Majesty, and moderate Satisfaction to the Parties, strike off the whole 80000 *l.* Irish. And then, if after passing beneficial Laws for the Subject, two more Subsidies could be got from them to buy in Rents and Pensions to 10000 *l.* yearly value (a thing they are inclinable to) there would be a happy Conclusion to this Parliament, and his Majesty had made a more absolute Conquest of that Nation by his Wisdom, than his Progenitors had done by their Armies, and vast expence of Treasure and Blood. Then as the best means to attain these desirable Ends, he proposeth, that a Committee be forthwith appointed there, to consider of such Bills as were intended, when a Parliament was to have been called in the time of my Lord Falkland, such as are beneficial to be made ready, those of too much prejudice to the Crown to be laid aside, and others then omitted to be drawn up. This Work may be quicken'd or foreslow'd, as the Parliament proceeds warmer or cooler in the Supplies. Next, that the Acts of Grace directed to my Lord Falkland, May 24. 1628. may be consider'd by such of the Council in England, as his Majesty should appoint, there being many matters therein, which sùre not with the Power requisite to be upheld in that Kingdom, nor with his Majesty's Profit; of such he had transmitted a Paper to the Lord Treasurer. He saith, 'tis to be fear'd, that the meaner sort there live under the pressure of the great Men; but to help this, he will find out two or three to make Examples of: that there is a general Complaint, that Officers exact much larger Fees than they ought; for this he will grant out a Commission, for regulating and setting down Tables of Fees in every Court. He saith, he will endeavour that in the Lower House, the Recusants and Protestants may be equally balanc'd, so that neither Party may be more considerable than the other; for thus they will be easier to govern: In private Discourse he will shew the Recusants, that if the Army be not supply'd by Decemb. the Twelve pence a Sunday must of necessity

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cessity be levied upon them; and the Protestants, that his Majesty must not let go the 20000*l.* Contribution, nor yet discontent the other in matter of Religion, till the Army was someway provided for; and convince them both that the present quarterly payments are not so burdenson as they pretend, and that they have had more benefit by his Majesty's Graces than their Money comes to: That he would endeavour to make as many Captains and Officers Burgessees as he possibly could, who having immediate dependence on the Crown, may almost sway the Business. In the Higher House his Majesty will have, he trusted, the Bishops wholly for him. The Titular Lords, rather than come over, will put their Proxies in safe hands; and in the rest, his Majesty hath an Interest, either out of their Duty to the Crown, or through their own Obnoxiousness. He prays his Majesty he may receive his Direction herein, and to consider how much his speedy Resolution imports the Prosperity of his Affairs there: That he had, in a Letter herewith sent to the Archbishop of *Canterbury*, offer'd Considerations for the better Government of the Church and Clergy in that Kingdom: That in his dispatch to Mr. Secretary *Cook*, he had set forth the mean condition of the Army there, and the necessary Course for a speedy Reformation. And in his Dispatch to the Lord Treasurer, he had transmitted the State of the Revenue there, the annual Issues, the great Debt charg'd upon it, and a way of raising a constant great Rent out of the Salt; of all which he prayeth his Majesty to take a summary Account; and for what he had presum'd to offer immediately to his Majesty, he takes it to be of that importance, that 'tis the Groundplot, whereon to raise Safety, Quiet, Security and Profit to that Kingdom; he beseecheth his Majesty's quickening Spirit may move upon these Waters, &c.

Mr. Prynns
Cause in
the Star-
chamber.

The Infor-
mation.

In *Hilary* Term this year on the 7th of *Feb.* a Cause came to hearing in the Court of Starchamber, where- in *William Noy* Esq; the King's Attorney General was Plaintiff, *William Prynns* Esq; an utter Barister of *Lincolns Inn*, *Michael Sparkes*, *William Buckner*, and others were Defendants. The Information being open'd by Mr. *Hudson* of *Grays Inn*, set forth, That

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about 8 Car. Mr. Prynne compil'd and put in print a libellous Volume, entitul'd, *Histrio-Mastix*: And altho he knew the Queen, Lords of the Council, &c. were present at Masques, Dances and other Recreations in themselves lawful, and so publish'd to be, by a Book printed in the time of his Majesty's Father; yet Mr. Prynne in his Book hath rail'd against Stage-Plays, Comedies, Dancings and other Exercises, and against such as behold them, as also against Hunting, publick Festivals, Christmas keeping, Bonfires, May-poles, and dressing up a House with green Ivy; hath incited the People to discontent, as if there were Cause to lay violent hands on their Prince; hath us'd infamous Terms against his Majesty and his Household; hath aspers'd the Queen, and rail'd against all Christian People; commended factious Persons who have writ against the State, as Dr. Leighton and Jo. Mariana a Jesuit: He dealt with the Defendant *Michael Sparkes*, a common Publisher of unlawful Books, for the Publishing, Licensing and Printing his Book, being above 1000 Sheets; and with the Defendant Mr. *Buckner* for the allowance of it for the Press, and with the other four Defendants for printing part and publishing the same.

Mr. *Arkins* of *Lincolns Inn* (afterwards a Judge of the *Common Pleas*) open'd Mr. Prynne's Answer to this effect: That he taking into his serious consideration the frequent resort of People to Stage-plays in and about *London*, and having read divers Councils, Laws and Statutes, and the judgment of several Divines, antient Authors and *English* Writers against Stage-Plays, not intending to reflect on the King, Queen, State or their Lordships, did, about seven years since, compile this Book, entitul'd, *Histrio-Mastix*, and about four years since committed the same to the Defendant *Michael Sparkes*, who carried it to Mr. *King*, belonging to the late Archbishop of *Canterbury*; but before he had perus'd it, took it and carried it to Mr. *Buckner*, who had Authority to allow Books, and kept it by him three months, having by that time fully perus'd it. In the interim he gave part of the Book to *Sparkes* to print, and said he should have that also to

His Answer.

Ann. 1633. the Press: That the Copy with the Licence was enter'd in *Stationers-Hall*, and the Printing compounded for: That Mr. *Buckner* corrected the Copy in several Places, and made such Alterations as he saw Cause for, and particularly would have the word *Pity* left out in such a Page. But I wish (said Mr. *Atkins*) that *Pity* may be added to every Page of the Book. That when Mr. *Prynn* saw all this from Mr. *Buckner*, who had Authority to license Books, he conceiv'd he had a sufficient Warrant for his Proceedings. As for the Defendants commending Dr. *Leighton* for his Book, which was censur'd in this Court, he adhereth to him and others no further than in what is agreeable to the Laws, and the Defendant's Book was printed long before Dr. *Leighton* was questioned. He saith he is so far from Disloyalty, Schism, Sedition or Neglect of the King or Government, that he is thankful to God for our Happiness, by the Peace we enjoy under his Majesty's Happy Government: That he hath taken the Oaths of Supremacy and Allegiance in the University and Inns of Court, where he hath taken his Degrees: That if any thing in his Book be misconstrued, he craves his Majesty's Pardon and Grace.

Sparkes's
Answer.

Mr. *Jenkins* of *Grays Inn* open'd the Answers of *Sparkes* and four other of the Defendants to this effect: *Sparkes* saith, that the Printing of this Book cost him almost three hundred Pounds, and he sold not many of them: As for his being a common Printer of unlawful Books, he saith, he hath prosper'd in his Calling, and some Stationers have envied him; and he leaveth it to the Bishops to know what Success he hath had in the High Commission Court. The poor Widow saith, she knoweth nothing of the Contents of the Book: The rest say they are illiterate, and not able to judge whether the Book was fit to pass the Press or not: That it was licens'd before and allow'd after Printing, enter'd in *Stationers Hall*, and subscrib'd by the Warden; and when Searches were made at the Press, the Book lay open there.

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Mr. *Lightfoot* of *Grays Inn* open'd Mr. *Buckner's* Answer to this effect: That he was Chaplain to the late Archbishop of *Canterbury*, and approves of the Church of *England* and all its Ceremonies, Church-Musick and Bowing at the name of *Jesus*, and holds Plays, Musick and Dancing lawful; He abhors those Censures in the Book of Ecclesiastical Persons; licens'd part of the Book, but never gave order to disperse it; and when publish'd, endeavour'd to suppress it. To the rest he pleads Not guilty.

9 Car.
Buckner's
Answer.

Mr. *Nay* Attorney General then spake. He said, what in the Book concerns the Church he hath left out of the Information; He pray'd the Court would recommend those things to the High Commission, viz. About modern Innovators, cringing and ducking to Altars, Church-Musick, which Mr. *Prynne* calls the Bleating of brute Beasts; suppressing Repetitions at Conventicles; the Bishops and Clergy, whom he calls Silk and Satten Divines; Christmas, which as it is kept, he calls the Devil's Christmas; Puritans, which Name he would have men affect, as if Christ had been a Puritan; Images in the Church which he speaks against; the Sabbath-day, whether to begin Saturday evening, and end on Sunday six of the clock; Pluralities, which he brings under the Title of Stage-plays, and so he doth the rest: He said he left these things to the Church. That the Book it self is a Witness against Mr. *Prynne*; and had it been found in the street, this Court would have proceeded against him without a Party. It was compil'd seven or eight years ago, and is grown seven times bigger than at first, and seven times worse, since it was first deliver'd to the Press; having several things in it then impossible to be known: as about *St. George* the *Arian's* looking abroad into the World in 1631. and a Woman that acted her part in a Play at *Blackfryers* in 1628. He speaks of the Dearth which was but three years ago, and of Masques and Plays in the late penurious times, which were as expensive as the Wars: Thus it grew by degrees. He falls, besides what is above mention'd, upon New-years Gifts, whether Witchery or not; Hair of Men and Women, Bonfires, Cards, Tables, Peruques, and *St. George*, who never offended him; and all this to

Attorney
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pleads a-
gainst 'em.

Ann. 1633.

make men believe we are returning to Paganism, and persuade 'em to go and serve God in another Country, as many are gone already. It may be lawful to write against Plays by men that have a Mission; but Mr. Prynn had none, and the Terms he useth he found among the Oister-women at *Billinggate*, or at the common Conduit. He confesseth he compos'd the whole Book call'd *Histrion-Mastix*, and the Epistle, Index and Table. Dr. Goade deposeth, That about eight years since, he brought him a Book of about a Quire of Paper concerning Stage-Plays, which he refus'd to license, and ask'd him, if as a Christian he was persecuted by Pagans, whether he might not disguise himself in his Maid's Apparel? Mr. Prynn answer'd No, but he was rather bound to yield to Death. Dr. Harris deposeth, That about seven years since, Mr. Prynn brought it to him to license, which he refus'd; it was then young and tender, but now seven times bigger. Austin deposeth, That in or about the last Parliament, Mr. Prynn and Sparkes caus'd him to print seven Sheets of it. Joseph H. deposeth, That about that time Sparkes printed several unlicens'd Books, and said he durst print any thing in Parliament time.

Mr. Mason of *Lincolns-Inn* reckon'd up the Epithets wherewith Mr. Prynn had aspers'd all sorts of People: He said it was a Libel against the State and every particular Person.

Mr. Noy then proceeded. He said Mr. Prynn in his Book had fallen foul upon all Things, Persons and Sexes; we are falling into Paganism, Men and Women are naught; he spareth not the King, he instances in *Nero*; he speaketh of consuming the Treasure of the Realm with Masques, and of the late penurious times for a Remedy (worse than the Disease) he invites men to read *John Mariana* and two Authors more. Then Mr. Attorney caus'd to be read several Passages in his Epistle Dedicatory to the Society of *Lincolns-Inn*, to the effect following; That he having been at his first Arrival at *London* drawn in to hear and see in four several Play-houses such Wickednesses, as made him abhor all Stage-players, and having observ'd the woful Effects of Play and Playhouses in some young Gentlemen of his Acquaintance

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quaintance, who in half a years space by resorting to Plays, where Whores and leud Companions had intangled them, became prodigal, incontinent and debauch'd; two whereof were disinherited by their Parents, whom he heard complaining with tears, that Plays and Playhouses had undone their Children: he had about seven years since digested into one Discourse, what play-condemning Passages he had met with in the Fathers and other Authors, which he hath since enlarg'd, as Players, Play-books, Playhaunters, and Playhouses increas'd; there being above 40000 Play-books printed within these two years, they being now more vendible than the choicest Sermons; two old Playhouses re-edify'd, and a new one erected; there being now in all six Devil's Chappels (as the Fathers stil'd all Playhouses) whereas even in *Nero's* time there were but three Theatres in Pagan Rome, tho far more spacious than *London*. Mr. Attorney General also caus'd to be read out of the said *Histrion-Mastix* some other passages, which (he said) were scandalous to the King and Government, as fol. 312, &c.

In defence of Mr. *Prym*, Mr. *Atkins* said, that the Gentlemen who had argu'd against him, had made Expositions contrary to his Client's Intention, and many passages in his Book are not positive, but relatively spoken, and most of them the Affirmations of other Authors; That where he saith, such incarnate Devils as frequent Plays, he speaketh against common frequenting of Plays, lest they should prove incarnate Devils; and so of Ladies that cast off their Nature and Modesty; that is relative too, viz. by frequenting Plays, lascivious Dancing, &c. and his Argument is this, That which ordinarily defiles the Eyes, Ears, and Souls of Actors and Spectators, by exciting lustful Desires, or by instigating to actual Uncleanneſs, is abominable and unlawful to Christians: But these Stage-plays, &c. therefore they are abominable; and there are none but Whores, Panders, or foul incarnate Devils, who dare controul that Minor Truth. He doth not condemn New-years Gifts or Dancing, and commendeth this last as single and dancing the Measures; and for Dancing in Great men and Princes, he protests it was far from his Thoughts to compare these times

Mr. Atkins.

Ann. 1633. (under so religious a Prince) to those of *Nero*. By the Dancing and Masquing near as expensive as the Wars, he intends that of *H. 8.* his time, and he speaks of a History to that purpose: He lays hold of the King's Mercy, and Compassion of this Court. He said he would not condemn his Heart or excuse his Pen; That he hath known him long, and his Discourses have not been factious or seditious; but like the Astronomer that so fix'd his Eyes on the Stars that he did not look to his Feet; his Eyes were so fix'd on the Subject of Stage-plays, that he forgot to look to his Hand that guided his Pen.

Mr. Holborn,

Mr. Holborn, of Counsel also with *Mr. Pryn*, said *Mr. Pryn* confess'd himself to be justly brought before their Lordships for his ill Expressions; but the Intentions of his Heart were fair and honest, and he citeth his Authors and their Words: where he mentions the Sabbath (not proper to Stage-plays) he meaneth Stage-plays upon the Sabbath day. His mentioning Habits and Recreations related to mens putting on Womens Habits, and unlawful Recreations at Plays. He is heartily sorry his Style was so bitter, but he was led to it by Authors in the like case. He saith, that as for the Matter of his Book, they are the Licensers that are guilty; and this Book being licens'd, differs from others brought into this Court, which are all unlicens'd. *Mr. Pryn* swears that the general Resort unto Plays was the first occasion, and the Reformation of it the end of his writing. He printed it in *England*; it was three years in the Press and licens'd: Had his Heart been guilty, he would not have presented one of them to *Mr. Attorney* himself. He did not absent himself; he commends the King and State, and all said against him were but strain'd Inferences. He is accus'd of Perjury, for swearing he shew'd this Book to none till it was shew'd to *Sparkes*; which was true: for that shew'd to *Dr. Harris* and *Dr. Goad*, was not this Book, but only one of a Quire of Paper.

And Mr. Hern plead for Mr. Pryn.

Mr. Hern, of Counsel likewise with *Mr. Pryn*, said, That if the Construction the King's Counsel had made were admitted, his Client must fall deep by their Lordships Sentence, but he hath explain'd himself as fair

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as can be by his Oath; and if that shall be admitted as proof against him in the acknowledgment of his Book, why not as well to clear the Intentions of his Heart? which was transported with Zeal against the mischiefs had befallen many (some of his Acquaintance) by frequenting Stage-plays. He said he had, to himself and others that knew him, in all Passages that fell from him, express'd himself full of Duty to the King and Queen. Then he offer'd some Passages out of his Book (which were open'd by the Counsel, but not read) wherein he speaks well of both their Majesties and the State; and concluded that there were nothing but Inferences that reflected upon him.

Three Starchamber days being spent in hearing this Cause, the fourth day the Lords proceeded to such Sentence as is express'd in the ensuing Speeches, which comprehend in effect all that was said by others.

Francis Lord Cottington Chancellor of the Exchequer, being the lowest in Quality, began. He said, That in *Mr. Prynn's* libellous Book was express'd a Malice against all Mankind, and in a manner against all things: His Spleen against the Church and the Government of it is remarkable, but for that he would not sentence him, not being prosecuted for it. He was surely assisted by the Devil, or rather assisted the Devil. He hath written against the Reverence due to our Saviour Jesus; this convinces his (the Lord Cottington's) Judgment against him. The very Stile declares his Intention to work a dislike of the Church, and Disobedience to the King. He liketh nothing, Musick, Dancing, &c. unlawful even in Kings: no Recreation or Entertainment, no not Hawking; all are damn'd. *Mr. Prynn's* Counsel said, he had no ill Intention against King or State: But it was answer'd, his Intention must be judg'd by the Book. This is not like other Libels, but in Folio, in Print, and justified by Authors with a high hand. He saith positively, not relatively, that our *English* Ladies have lost their Modesty; that the Devil is honour'd in Dancing; that Plays are the chief Delight of the Devil, that they who frequent them are damned, and so are those that concur not with him in opinion Whores, Panders, foul incarnate Devils, *Judas's*, &c. Princes who dance are

9 Car.

The Court
proceeds to
Sentence.

Lord Cot-
tington.

Ann. 1633.

are infamous; and this was the Cause of untimely ends of Princes: It's the King's mercy Mr. *Prynn* is not destroy'd. We have seen Men condemn'd to die for less matters; as *Peacham* was for a Sermon against the King, written tho never preach'd by him: and this Book is against the King and his blessed Confort, and against all Magistrates in general. It was said, Players were Rogues by the Statute: But Mr. Attorney said, not unless they wander; and through the whole Book he speaks against Plays in Princes Palaces, as well as against common Plays; and what he saith out of any Author, he makes his own. He condemns Murder; yet it seems the Execution of Princes is not Murder with him; the Design of him and *Mariana* being the same. His Sentence was, the Book to be burnt by the Hangman; Mr. *Prynn* himself to be put from the Bar, to be incapable of his Profession, expell'd *Lincolns-Inn*, degraded at *Oxford*, to stand in the Pillory in *Westminster* and *Cheapside*, lose both his Ears, one in each place, with a Paper on his Head, declaring it is for an infamous Libel against both their Majesties State and Government, to pay 5000*l.* Fine to the King, and lastly perpetual Imprisonment. For Mr. *Buckner* the Chaplain, who licens'd the Book, or at least 64 Pages thereof, against whom hath been little or no Prosecution, it is said in his Excuse, he was surpriz'd by Mr. *Prynn* and *Sparkes*, but it is plain he licens'd part of it; he adjudg'd him worthy of a severe Reprehension, and to be imprison'd, and pay 50*l.* Fine to the King. For *Michael Sparkes* the Printer, Binder, and Publisher, who persuaded Men to buy it after it was prohibited, and before it was prohibited said, it was an excellent Book, and would be call'd in, and then sell well; he fin'd him 500*l.* to the King, to stand in the Pillory (without touching his Ears) with a Paper on his Head declaring his Offence, the Pillory to be in *Paul's Church-yard* (It is a consecrated place, said the Archbishop of *Canterbury*) I cry your Grace's mercy (said the Lord *Cottington*) then let it be in *Cheapside*. The other three he censur'd not, because not prosecuted.

Prynn's
Sentence.

Buckner's
Sentence.

Sparkes's
Sentence.

L. Ch. J.
Richardson.

The next was the Lord Chief Justice *Richardson*. He said writing and printing of Books grew every day

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day worse and worse: They were now troubled with a Book, a Monster (*Monstrum horrendum, informe, ingens*) of which he was satisfied Mr. Prynne was the Author, tho not the only Actor; but that there were many Heads and Hands therein besides himself. The Book is annex'd to the Information; it's a most scandalous infamous Libel against the King, Queen, the Lords, and all sorts of People; Eye never saw, nor Ear ever heard the like. Mr. Prynne saith there are above 40000 Play-books now more vendible than the choicest Sermons: In his Epistle Dedicatory he saith, they are printed in far better Paper than most Octavo and Quarto Bibles; and 'tis a years' time to peruse them over: This Monster is nothing but lies. This Man is not like the Powder-Traitors, who would have blown up all at once; for he throweth down all at once into Hell. He saith none are Gainers by Stage-plays, but the Devil and Hell, and the Souls of Play-haunters go to eternal Torments; That they are little better than incarnate Devils and unclean Spirits: The Writers, Projectors, Beholders, Dancers, and Singers at Plays, all damn'd; so many paces in a Dance, so many paces to Hell: The Woman that singeth in the Dance is the Priores of the Devil, those that answer the Clerks, the Beholders Parishioners, the Musick Bells, and the Fiddlers Minstrels of the Devil. This is to take away the Subjects Hearts from the King, and to bring him into an ill Opinion among his People; and if he were in his proper place, and Mr. Prynne brought before him, he would go another way to work. He saith *Nero's* acting and frequenting Plays was the chiefest cause of conspiring his Death; will any man think that to be the chiefest occasion? In another place he writes, That *Trebellius Pollio* relates, that *Martian*, *Heraclius*, and *Claudius*, three worthy Romans, conspir'd to murder *Gallienus* the Emperor, a Man much besotted and taken up with Plays: which was no Christian Expression, to call them worthy Persons that conspir'd to murder an Emperor. This is horrible, and all his Excuse is, it was not his Intention; when the words are plain and clear. He said, he had known Mr. Prynne long, but now he must utterly forsake him, since he had forsaken God, Religion, Allegiance,

Ann. 1633.

giance and Honour to their Majesties, Charity to all noble Ladies and Persons, and all Goodness. He agreed in his Sentence against Mr. *Prynn*, *Buckner*, and *Sparkes* with the Lord *Cottington*. He said he believ'd he was as well able to pay 5000*l.* as half a 1000 *l.* and thought fit he should be restrain'd from Pen, Ink and Paper; only let him have some pretty Prayer-book to pray for forgiveness; and he would have him acknowledg his Offence to the King and Queen.

Secretary
Cook.

Mr. Secretary *Cook* said, It appears by this vast Book that Mr. *Prynn* had read more than he had studied, and studied more than he had consider'd; whereas if he had read one Sentence of *Solomon*, *Be not overjust, nor make thy self overwise; for why wilt thou destroy thy self?* it might have sav'd him from this Danger. But when Wisdom is mix'd with a man's own humours, it may tend to his Destruction: Christ saith, *You know not of what Spirit you are.* I would Mr. *Prynn* would have consider'd this: For as there is a meek Spirit, so there is a fiery Spirit, which brings with it Confusion. Certainly Vice and Corruption ought not only to be reprehended, but punish'd severely; but every man is not a fit Reprehender: Mr. *Prynn* had no Invitation, Office, or Interest to imploy his Talent that way. If nothing be tolerated, we must live no longer among men; and if we will live with them that are wholly virtuous, we must go out of the World. A man may purge ill humours in the natural Body, till he purge away Spirit, Life and all: so 'tis in the Body politick; there must be a Toleration and Connivance: Christ forbid the cutting of the Tares, lest we pluck up the Corn. Mr. *Prynn* would not have bid *Naaman* go away in peace, but would have threatned Hell and Destruction. The Faults that in all Ages have been tolerated, have been greater than modest Plays and modest Dancings; not that he would apologize for Stage-plays, much less for the Abuse of them, but wishes the Abuse were restrain'd, tho not by railing, cursing, damning, inveighing, &c. against both Players and Spectators of all degrees. He term'd Mr. *Prynn* the *Timon* and *Ajax Anthropomastix* of the Age, and concurd with the Lord *Cottington's* Censure against all three.

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The Earl of Dorset term'd Mr. Prynn, Prophet Prynn and Achan, and his Book, Damnation; said, he had no Mission, as the Apostles had, who advanc'd their Cause by Meekness, Humility and Patience; they taught Obedience to Magistracy, they detracted from none; they gave to *Caesar* the things that were *Caesar's*; if Princes were bad, they pray'd for them; if good, they prais'd God for them; however, they bore with them. This was the Doctrine and Practice of the primitive Church. When God made all his Works, he saw they were good: But this Gentleman (the Devil having put Spectacles on his nose) saith all is bad, no Recreation, Vocation, Condition good; all is wrapt up in *Massa damnata*, all in the ditch of Destruction: Oh! but it was the Wickedness of the times that prompted him thro tenderness of Conscience to write this Book. But this brittle Conscience, that perhaps starts at the sight of a corner'd Cap, sweats at a Surplice, swoons at the sign of the Cross, and will rather die than put on Womens Apparel; invents Legends, coins new Statutes, corrupts and misapplies Texts, dishonours Men, defames Women, equivocates and lyes; is like a Tumbler, looks one way and runs another; seems by the Title of his Book to scourge Stage-plays, but the end is to make people believe, there is an Apostacy in the Magistrates. From thence the Earl took occasion to extol the King and the prosperous days they enjoy'd under him and the Queen his gracious Mistress, whose Virtues he daily contemplated; her Candour, Honour, Chastity, Majesty, Mildness, Meekness; her harmonious Soul, her Zeal in the ways of God, Affection to her Lord, Sweetness of Disposition, Compassion, Charity; she troubleth the Ghostly Father with nothing, but that she hath nothing to trouble him withal; and yet there is a *Doeg* among us, whom, notwithstanding the Tergiversations of his Counsel, he could better prove to have meant the King and Queen by that infamous *Nero*, &c. than he has prov'd that Players go to Hell: And he told Mr. Prynn it was not Mr. Attorney, but all Mankind that call'd for Judgment against him. He declar'd Mr. Prynn a Schism-maker in the Church, a Sedition-sower in the Commonwealth, a Wolf in Sheep's

9 Car.

Earl of Dorset.

Ann. 1633.

Sheep's Clothing, in a word, *omnium malorum nequissimus*. He fin'd him 10000*l.* which is more than he is worth, yet less than he deserves: He said he would no more set him at liberty than a plagued Man or a mad Dog; therefore condemn'd him to perpetual Imprisonment, as those Monsters that are no longer fit to live amongst men, nor to see Light. For corporal Punishment, he question'd whether he should burn him in the Forehead, or slit him in the Nose; for Dr. *Leighton's* Offence was less than Mr. *Prynn's*, and why should Mr. *Prynn* have a less Punishment? For he may hide the loss of his Ears with a Peruke which he so much inveighs against, or make use of Lovelocks; Therefore he would have him branded in the Forehead, slit in the Nose, and his Ears cropt too. He concurs in the burning of the Book, and Proclamation to be made for all that have them to bring them to a publick Magistrate to be burnt. For Mr. *Buckner*, he believes he had no intention the Book should come abroad; he is said to be a conformable man; he shall hardly censure him: he deserveth Admonition. For *Sparkes*, he concur'd in all things: he added, that *Sparkes* should be bar'd from printing and selling of Books, and kept wholly to binding of Books: As the Feodary had his Office taken from him by this Court. This Sentence against Mr. *Prynn* was executed the seventh and tenth days of May following.

Inns of
Court pre-
sent a
Masque to
the King
and Queen.

Who are
feasted by
the City.

Lestrange
pag. 129.

To welcome his Majesty home from Scotland, the four Inns of Court presented the King and Queen with a most glorious Masque; Four Gentlemen out of each Inns of Court, on *Shrove-Tuesday* the 18th of February at night, riding on Horseback richly habited to *White-hall*, accompany'd with a Train of Christian Captives, many years enslav'd under the Emperor of *Morocco*, and now sent by him as a Present to the King. And a Fortnight after, the City feasted their Majesties at Alderman *Freeman's* House (then Lord Mayor) where the same Inns of Court Revellers riding in the same manner through the City attended their Majesties, and at *Merchant-Taylor's* Hall the City partook of that radiant Shew and Masque; which (saith an Historian who writ the Life of King *Charles*) was such, for curiosity of Fancy, excellency of Performance, Lustre and

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and dazling Splendor, as that Age never in this Isle afforded the like. And it happening soon after Mr. *Prynn's* Sentence, some were apt to think it was partly design'd in opposition to his *Histrio-Mastix*, being an Invective against Stage-plays.

9 Car.

Other Starchamber Cases Anno 1633.

Pasch. 9 Car. The Defendant Sir *Edward Bullock* Blackhall designing to inclose a Common in *Westkilne* in the County of *Norfolk*, threaten'd to make the Plaintiff *Bullock & Blackhall* to run the Country, if he would not sell his Lands to him, and yield up his Leases. And one of the Defendants setting open a Gate of the said Plaintiff's, which was stak'd up, and breaking his Hedges, whereby his Cattel went into the Common, Sir *Edward* su'd the said Plaintiff for that Trespass, and fore'd him to three Trials at Law for three Roods of Land; and a Verdict passing against Sir *Edward* on a Trial, where the said Plaintiff had four Witnesses, Sir *Edward* swore he would be reveng'd of the Rogues, the said Plaintiff's Witnesses: And sending for one of them, caus'd *Boydon* and two other of his Servants to pull down his House, none being therein but a Child who ran out naked; and his Wife and Children lay in the streets a night or two, none daring to receive them; and being afterwards by a Justice's direction receiv'd into a House, Sir *Edward* so threaten'd the Owner, that he turn'd them out of doors, and all the Winter they lay in an Out-house without Fire, so that he, his Wife, and one Child died. And the said Defendant beat another of the Witnesses, so as she could not put on her Clothes for a month after: Another of the Witnesses he threaten'd to fire his House, or pull it down. That the Defendant *Tassel*, by colour of a Warrant to arrest the Plaintiff *Wales*, broke open his doors, pull'd him out of his House, and kept him Prisoner three hours. The Defendants were all committed; Sir *Edward Bullock* fin'd 1000 l. *Boydon* 50 l. and *Tassel* 50 l. *Bullock* to pay the Plaintiff *Blackhall* 100 l. damage, and out of that to give somewhat to the Children of the Person whose House was pull'd down.

Oppression by Suits.

A Witness's House pull'd down in revenge.

Another beaten.

Another threaten'd.

Unlawful Arrests.

The

Ann 1633.

Wicksteed
vers. Con-
stantine.
Mainte-
nance.

The Defendant *Constantine* disburs'd Mony towards the suing forth a *Scire facias* out of the Exchequer against the Plaintiff, which at his (the Defendant's) instance was executed and return'd, and the Defendant at his own Charge procur'd a Judgment against the Plaintiff, and an Extent to be su'd forth and executed, having no Interest in the Debt. He was committed, and fin'd 100 l.

Southerne
Mil. vers.
Hern & al.
Riotous
destroying
of Fences.

Seventeen of the Defendants with sixty or eighty others riotously broke down, pull'd up and burnt the Plaintiff's Gates, Rails, Hedges and Fences of *Westland Heath*, threaten'd to burn the Constables also, and had a Captain and Lieutenant among them. They were committed; the Captain and Lieutenant fin'd 100 l. each, bound to their good behaviour a year, and to acknowledg their Offences at *Norfolk Assizes*: The rest fin'd 50 l. a-piece; but no damages, for that some of them had had two Verdicts for Common there.

Att. Reg.
vers. Over-
man & al.

Using Fish-
Oil in Soap-
making.

Not suffer-
ing the Es-
say-master
to try their
Soap.

And now came on the hearing upon the Information against the Soapboilers herein before-mention'd, which was to this effect: That the Defendants being Soapboilers did use Fish-Oil, and some of them Spike-Oil; whereas his Majesty had by Proclamation prohibited the use of any other than Oil-Olive and Rape-Oil: That the Defendants *Griffin*, *Cox* and *Revel*, by the instigation of the Defendant *Whitwell* (contrary to his Majesty's Proclamation) refus'd to suffer the Essay-master to try or mark their Soap: And tho no Corporation, yet the Defendants *Overman*, *Baker* and *Troughton*, with others, held divers Assemblies about the Sale of their Soap, and buying of Fish-Oil; and agreed not to sell their second best Soap under four and fifty Shillings a Barrel, and afterwards sold it at greater Rates; and after that bought 600 Tun of Fish-Oil, to use in making their Soap. The Defendants were all committed during his Majesty's pleasure; *Griffin* fin'd 1500 l. *Overman* Senior and *Whitwell* 1000 l. a-piece, *Baker*, *Troughton*, *Cox*, and *Revel* 1000 Marks a-piece; *Hardwick*, *Overman* Junior, *Barefoot*, *Hayes*, *Hynde*, *Washer*, *Barber*, *Weedon* and *Monck* 500 l. a-piece: And all disabled to exercise their Trade of Soapboiling at any time hereafter.

Disabled to
use their
Trade.

Possession

Possession being given the Plaintiff (by virtue of a Commission out of the Exchequer) of the Mannor-house of *Lea*, and Lands thereunto belonging, extended for a Debt of 365 l. due to his Majesty, and granted by Letters Patents to the Plaintiff at a certain Rent; the Defendants *Houghton*, *Barton*, and *Dawson*, with others to the number of about sixty, enter'd into part of the said House, and being requir'd to depart, *Barton* and *Dawson* said they would be there, and divers of their Company threaten'd the Plaintiff and the Commissioners; and *Houghton*, on pretence he would compound the Debt, drawing the Commissioners out of the House, the Doors and Gates were lock'd up by the Rioters, and the Plaintiff and his Company kept as Prisoners, without Fire or Candle. The said three Defendants were committed; *Houghton* find 100 l. the other two 50 l. a piece.

The Defendant *Thomas Ogle* Esq; bearing malice to the Plaintiff, he and the other Defendants sought for him in several places; and at length finding him, with one only in his Company, and without Weapons, after some Speeches pass'd, told the Plaintiff he ly'd, and ly'd in his Throat: and the Plaintiff thereupon hitting him in the face with his Gloves, the said *Thomas Ogle*, arm'd with Dagger, Sword, and Pistol, struck the Plaintiff over the face with his Riding-rod; and then he and the other Defendants drawing their Swords, wounded the Plaintiff in the Head, and cut thro his Skull, so that three or four pieces were taken out, and he was a year and half before perfectly cur'd. The three *Ogles* were committed, fin'd 500 l. a piece, bound to their good behaviour two years, to ask the Plaintiff forgiveness in this Court, and pay him 1500 l. damage.

The Defendant had gotten a Bond for 31 l. 4 s. from one *Homes* to *John Turney*, late *Felo de se*, receiv'd 24 s. Interest, deliver'd up the Bond to be cancel'd, and took a new one in his own name. The Court order'd the Defendant to pay the Mony to the Plaintiff, and gave him time to shew cause why he should not pay the Plaintiff other Debts which he ow'd the *Felo de se*.

9 Car.
Wren
Arm. vers.
Houghton
Arm. & al.
Riotous
disturbance
of a Possession.

Wingfield
Mil. vers.
Ogle Arm.
& al.

Assaulting
the Plaintiff.

Eleemosi-
narius Reg.
vers. Tur-
ney *Felo de se*.

Ann. 1633.

Barker
ver. Hamond &
al.

Riot.

The Defendants *Hamond* and *Detton*, in contempt of an Order of the Court of Wards, came with one *Missey* all of them arm'd into the Field, where the Plaintiff had Corn cut, and gave out the Plaintiff should fetch no Corn there; and *Missey* standing at the Gate where he was to come in, swore, if he came in he would shoot him with his Pistol, pulling up the Cock, and presenting it to the Plaintiff; and at another time *Hamond* beat the Plaintiff's Oxen with a Pitchfork, and wounded them, when they came to carry away the Corn cut by *Hamond's* Servants. *Hamond* and *Detton* were committed, fin'd 40 l. a-piece, and 20 l. damage to the Plaintiff.

Dunne
ver. Rea
& al.Riotous
taking a
Possession.

Two of the Defendants, on behalf of the Defendant *Watmore*, entred into a House where two of the Plaintiff's Children were keeping possession, and detain'd the same from the Plaintiff, saying, none should come in but upon the Sharp; and the Plaintiff's Wife endeavouring to hinder the Defendant *Whitfield* from coming in, the Defendant *Jo. Rea*, being a Constable, bid them take her from the Door or knock her down: And *Rea* procur'd the Plaintiff to be arrested several times at the Suit of one *West*, without *West's* Privy, and kept him in Prison three Nights, and threaten'd him with other Actions unless he would release Bonds and those who had forcibly enter'd, and give *West* security for Mony: And being indicted at the Sessions, so pinch'd and disturb'd a Witness, that he went away without giving evidence for the King. The Defendants were all committed, bound to their good Behaviour, *Rea* fin'd 200 l. four others 40 l. a-piece, and two more 20 l. a-piece.

Driving
away the
King's
Witness.Webster
ver. Lucas.
Libellous
Letters.

Trin. 9 Car. The Defendant procur'd a libellous and scolding Letter to be written to the Plaintiff, subscribed *Joan Tell-truth*, calling him *Scoggin* and other disgraceful names, and his Wife *Jezebel* and the Daughter of *Lucifer*; and caus'd another like scandalous Letter, subscribed *Tom. Tell-truth*, to be sent to the Plaintiff. The Defendant was committed, fin'd 40 l. bound to her good Behaviour, to be duck'd in Cucking-stool at *Holborn-Dike*, acknowledg her Offence at the Vestry, and pay the Plaintiff 20 l. damage.

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The Defendants being arm'd, made several Entries into the Plaintiff's House and Land, and disturb'd and detain'd the Possession after he was restor'd by the Justices of Peace. They were all committed, *Turner* and two others fin'd 50*l.* a piece, seven others 25*l.* a piece, and five of them to be bound to their good Behaviour for a year. Note, all the Defendants were formerly indicted at a Quarter Sessions for the same forcible Detainer of the Possession, and upon their Travers fin'd for the same.

It appear'd by Circumstances (but no direct Proof) that the Defendants *Richard Littlehales Senior* and *Richard Littlehales alias Bristoe*, were guilty of hunting and killing the Plaintiff's Deer. They were committed to the Fleet, fin'd 100*l.* a piece, bound to their good Behaviour, and to pay the Plaintiff 40*l.* a piece.

The Defendants being charg'd with taking the Tolls and Profits of Fairs and Markets within *Uxbridge*, it was refer'd to the Earl of *Manchester* and others, who certified the Court, that the said Town was no Corporation, and that the Plaintiff was seiz'd of the Manner of *Coleam*, and of the Borough and Town of *Uxbridge* as a Member thereof, and of the Fairs and Markets, and Tolls and Profits thereof, and the choice of the Bayliffs belongs to the Plaintiff, who may remove them at pleasure. All which the Defendants acknowledg'd, and the Referees awarded them to pay 260*l.* to the Plaintiff, for the Tolls and Profits receiv'd by them, and Costs of Suit, and so the Bill to be dismiss'd, which was decreed by the Court, and the Defendants to pay 20*l.* to the King, *pro licentia concordandi*.

The Defendant wrote a witless libellous Letter, directed to a Proctor and a Clerk in the Consistory Office at *York*, viz. That the Bishop is so strong, that if Bribery will be taken you must lie all along (because the Bishop shuts Warrants at every door) meaning the Bishop of *Chester*. The Defendant was committed, fin'd 500*l.* to be set on the Pillory at *Wigan*, *Lancaster* Assizes, and *Chester*, and at each place to acknowledge his Offence in a Writing to be deliver'd to him.

9. Car.

Stephen.

son ver.

Turner &

al.

Forcible

Entry and

Detainer.

al.

Briggs Ar.

ver. Lit-

tlehales

& al.

Killing the

Plaintiff's

Deer.

Countess

Dowag. of

Derby ver.

Baker &

al. Inhabi-

tants of

Uxbridg.

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Ann. 1633.

Bulky

Arm. vers.

Rowley.

Atte Regis

per Bel.

Kent Mayor

of Lincoln,

versus

Rowkes

Gent.

Contempt of

Proclama-

tion, &c.

21. 11. 1633.

Stace vers.

Walker.

Defaming

the Plain-

tiff.

The Defendant for taking away the upper part or Cap of the Pump or Sluice of the Plaintiff's Fishpond, and throwing it into the Pond, whereby great part of the Water ran out, and the Fish might have been spoil'd; was committed, and fin'd 100 l.

The Defendant, in contempt of his Majesty's Proclamation and Book of Orders, and of several Orders of the Relator and other Justices at *Lincoln*, restraining him to sell any Corn or Malt out of *Lincoln* Market, and injoining him to bring it weekly thither, and to sell it as the Market would afford (he having then 400 Quarters of Malt and 300 of Barley) and prohibiting him from malting any more at that time, did not bring to that Market above six Strikes of Barley from *October 6.* to *August* following, but bought several Quantities of Barley coming to Market, and malted 200 Quarters, and sold not above twenty Quarters in that Market, refusing 36 s. and 38 s. a Quarter, saying, that tho he was injoin'd to bring his Corn thither, they should not set a Price on it; and sold several Quarters of Malt out of the Market. The Defendant was committed, fin'd 1000 l. to acknowledg his Offences at the Assizes both for the City and County of *Lincoln*, and 200 l. damages to the Relator, for prosecuting this Cause and defending another.

The Defendant pretended that he had lost two Sheep, and that the Plaintiff had shorn them, and mark'd them with his Marks, and prefer'd an Indictment of Trespass against him at the Quarter Sessions at *Tenterden*, for taking away his Sheep and Wool; and in the Afternoon, an Indictment of Felony for stealing two of his Weathers and sixteen pound of Wool; but the Grand Jury, notwithstanding the Evidence he gave, return'd *Ignoramus*. In *December* following, as the Plaintiff, being one of the Jurats of *Tenterden*, was on the Bench with the Mayor and other Jurats, the Defendants accus'd the Plaintiff of Felony, for stealing his Sheep and Wool. Whereupon the Plaintiff being bound over to answer it at Sessions, the Defendant prefer'd the like Indictment against him for Felony, and brought three Fleeces of Wool, and shew'd them to the Court and Jury, pretending part of the stolen Wool, but sent home again to his

and then laid them on the Bank before the Sessions door; yet the Inquest then return'd *Ignoramus*. Afterwards the Defendant hung some Wool upon a Tree before the Plaintiff's Dwelling-house, ty'd about with a Halter, and told one the Plaintiff had a Tree that bore Wool, and another that there was a Tree before his Friend Sheep-stealer's House that bore Wool, and wish'd him to get him a Graft; and fix'd to a Turnpike this Libel; Freegift Stace, *beware of Sheep, for he did take, drive away, and shear the Wool, steal, and bear it away*: and endeavour'd to have a standing made before the Plaintiff's Dwelling-house, and offer'd one Mony to sell Wool there on *Tenterden* Fair-day. After this he caus'd two other Bills of Indictment to be prefer'd against the Plaintiff at *Canterbury* 20 miles off for the same Felonies, and the Grand Jury in the Plaintiff's absence found on both Bills *Billa vera*; whereupon at the next Sessions the Plaintiff was try'd and acquitted. The Defendant was fin'd 1000*l.* to be imprison'd during Life, to be set on the Pillory at *Tenterden* before the Plaintiff's door, and at *Canterbury* Sessions, and at each place to acknowledg his Offence, and have an Ear cut off; to be ty'd to the Tree where he hang'd the Wool, a whole day, with the Wool about his neck; then to be set in the Pillory at *Maidston*, and acknowledg his Offence, and to pay the Plaintiff 500 Marks damage.

Mich. 9 Car. The Defendant *Thomas Munday* being arrested in *Chelsey* Fields at the Plaintiff's Suit, the Defendants *Wine, Trotter, and Richard Munday*, with others, came in to them, and swore the Bailiffs should not carry him a foot further. The Defendant *Goring* being a Constable, having under pretence of keeping the Peace, taken away the Bailiffs Weapons, knock'd them down; and then the Defendants rescu'd the Prisoner, beat and wounded the Plaintiff and Bailiffs, and carried them to *Chelsey*; *Goring* threatening to throw one of them into the *Thames*: and at *Chelsey* he shut them up into a Room, took away their Warrant, and would not suffer a Chirurgeon to come and stanch their Bleeding. The Defendants were committed; *Goring* fin'd 50*l.* the rest 24*l.* a-piece; all bound to the good behaviour for a year, and to pay 50*l.* damage to the Plaintiff.

9 Car.
Hanging
Wool on a
Tree with
a Halter
before the
Plaintiff's
door.

Coats vers.
Goring &
al.

Riotous
Rescue.

Ann. 1622.

Att. Regis
ore tenus
vers. Jig-
ger & al.
Counter-
feiting Far-
thing To-
kens.

The Defendants confederated together to make counterfeited Farthing Tokens; *Jagger* and *William Cooper* were the Workmen, *Augur* furnish'd Mony and Copper, *Mescombe* a Blacksmith made some of the Tools, and *Ralph Gooper* bought others, and vented some of the Tokens. They were all committed, fin'd 100 l. a-piece, to be set on the Pillory in *Cheapside*, from thence whip'd to *Old Bridewell*, and there kept to work, not to be enlarg'd without Sureties for the good behaviour.

Att. Regis
per Rel.
Southcot
versus
Thorn-
bury.
Libel.

The Defendant publish'd certain Rhymes, which he said were made of the Relator, being a Chirurgion in *Caichester*, beginning thus, *From Set to South, From Cap to Cot*, and ending thus, *And is not he a very Knaue, who makes a Privy of a Grave?* He was committed, fin'd 50 l. to ask the Relator forgiveness at *Chichester* before the Mayor, and to pay him 20 l. damages.

Att. Regis
per Rel.
Bushen v.
D. Sar-
field & al.

Malicious
prosecuting
a Man for
Murder.

The Defendant, *Sir Henry Bealing* informing the Justices of Assize in *Ireland*, that *Bushen* the Father of the Relator had murder'd his own Wife, and an Indictment being prefer'd against him, the Grand Jury twice return'd *Ignoramus*; and he being about to be acquitted by Proclamation, *Bealing* procur'd the Lord *Angier*, then Judge of Assize, to bind him over to the next Assizes, and undertook to prosecute. In the mean time *Bealing* vowing he would have *Bushen* hang'd, and that he would follow him to Hell-gates but he would hang him, solicited the Lord *Loftus* Chancellor of *Ireland* to assist him therein, telling him it would be of great advantage, for that *Bushen* had a great Estate; but he refusing, he then desir'd *Welden* High Sheriff of the County to join with him, telling him it should be worth him 5000 l. and before the Assizes told the Lord *Loftus* he had now got a man of Power to prosecute *Bushen*, meaning the Defendant, the Lord *Sarsfield*, Viscount *Kilmallock*, Chief Justice of the Common Pleas in *Ireland*, and Justice of Assize, who the second day of the Assizes about seven or eight in the morning sent for the Grand Jury to the Sheriff's House, and causing a Bill of Indictment against *Bushen* for murdering his Wife to be read, told them they must find it; and no Evidence appearing but *Bealing*, who could only

only say he heard *Busben* murder'd his Wife, four of the Jury refus'd to find the Bill, whom the Lord *Sarsfield* order'd to attend him in Court, where he committed them, put them off from the Jury, and fin'd them 40 l. a piece, and then caus'd two others to be added to the eleven that were for the Bill, and to be all sworn of a new Grand Jury, who return'd *Billa vera*. And thereupon *Busben* coming to his Trial, and requesting three things; 1. That he being aged and deaf, and the noise of the Glass Windows, by reason of a Storm and of the People, being great, he might stand within the Bar to hear the Evidence; 2. That the Persons who view'd her Body, and put her into her winding Sheet, might be heard; 3. That the Justice of Peace who took the Examinations might also be heard: all which the Lord *Sarsfield* deny'd him. And the Petty Jury going out, and staying somewhat long, he sent them word, that if they would not agree, he would carry them with him next day in a Cart; and being told they were all agreed but one, he sent to the rest of them to pinch him, and pull him by the Nose, the Hair of the Head, and the Beard, and so compel him to agree, and to make much of him that night, and he would make much of him the next day; soon after which Threatnings the Jury found *Busben* guilty, and he was condemn'd and executed: whereas it clearly appear'd his Wife died of the Bloody Flux. The Lord *Sarsfield* was committed during the King's pleasure, fin'd 2000 l. and 1000 l. damage to *Busben* the Relator; Sir *Henry Bealing* committed, fin'd 500 l. and 250 l. damage to the Relator.

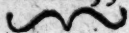
Unjust Carriage of a Judg, whereby an innocent man was condemn'd and executed.

The Defendants *Sandford* and *Hills* being Partners, did, contrary to the King's Proclamation prohibiting the Transportation of Wool, and in deceit of his Majesty in his Customs, cause seventeen Packs of Wool to be laden on Shipboard in the night from a Marsh-house of *Sandford's*, and carry'd over uncustom'd and uncocketted to *Diep*, part by the Defendant *Rowland*, and part by the Defendant *Shipwright*, and there sold by the Defendant *Webb*, who was sent over on purpose. The Defendants were all committed; *Sandford* and *Hills* fin'd 1200 l. a piece, and *Sandford* to be bound with Sureties that no more Commodities should

Att. Regis ore tenus vers. Sandford Arm. & al.

Deceiving the King of his Customs.

Ann. 1633.



Robinson
Arm. vers.
Stafford
Arm. & al.
Striking a
Gentleman
with a
Horsewhip.

be ship'd there; *Webb* fin'd 500 Marks, and *Rowland* and *Shipwright* 200 l. a-piece, and to find Sureties not to offend again.

The Defendant *Stafford* vowing he would be reveng'd on the Plaintiff, and acquainting the Defendant *Dr. Scot* therewith, *Scot* knowing *Stafford* would be at the *Bull-Inn* in *Stamford*, sent for the Plaintiff to meet him there that day about business, and the Defendant *Nanton* was sent before by *Stafford* to keep them company. At length *Stafford* came, went up to them, and presently whip'd the Plaintiff with his Horsewhip, and then with the great end, being an Ivory Handle, struck him seven or eight blows on the head, which he broke in divers places; and offer'd to draw his Sword, but was prevented by *Nanton*. The Defendants were all committed; *Stafford* fin'd 1000 l. and 500 l. damages to the Plaintiff, and to ask him forgiveness at *Northampton Assizes*; *Scot* fin'd 500 l. and *Nanton* 100 l.

Read Gen.
vers. Bent
Gent.
Extortions
in a Feo-
dary.

The Defendant being Feodary of *Leicestershire*, and an Office being to be found, rejected the Heir's Evidence, whereupon an *Ignoramus* was return'd; but the Heir afterwards giving the Defendant 10 l. the Lands were found to be held in Socage. Upon the death of the Lord *Beaumont*, he was promis'd 20 l. to suffer an Office to pass; whereof he receiv'd 10 l. and threaten'd to sue for the other 10 l. He took 18 l. to free one *Clark*, his Majesty's Ward, of his Wardship, and all trouble thereabout. After the death of one *Sacheverel*, an Office was found with the Defendant's consent, that all the Lands were held in Socage; for which the Defendant demanded forty shillings, and had it: and yet afterwards, without the Heir's notice, he caus'd an Office to be found, that *Sacheverel* died seiz'd of Lands held by Knights Service; and then offer'd to deliver up this last Office to the Heir, if he would give him 100 l. and 20 Marks for Charges. The Defendant was committed, fin'd 1000 l. and disabled to hold his Office of Feodary.

Att. Regis
vers. Bent
Gent.

The same Defendant, after the death of one *Mitchel*, took eight pounds for his Favour, and six pounds for Charges, and then the Lands were found to be Socage. And after the death of one *Feare*, he fish'd for a Bribe

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of 100 Marks to free the Heir from being Ward: and when the Lands were found Socage, he took three pounds and a Bond for 20 Marks. And after the death of one *Wakelin*, an Office was found that he held *in capite*, and his Son under age, whereas he was 22; which the Defendant being inform'd of, deliver'd up the Office, but took forty shillings of the Heir. And after the death of one *Armeiston*, an Office was found, that the Lands were held in Socage; for which the Defendant was tender'd forty shillings, but not contented, had three pounds given him: and yet afterwards, upon his own Evidence, without notice to the other side, he procur'd another Office to be found, that some of them were held by Knights Service. And after the death of one *Read*, an Office being to be found, and the Heir's Witnesses attending, the Defendant told them they need not attend, for nothing would be done that day; but after they were gone, upon his own evidence, an Office was found about Sunset that day, that some of the Lands were held *in capite*: and *Read* the Son was afterwards arrested for 127 l. mean rates; whereas the Son was seiz'd of those Lands at his Father's death. For these Offences the Defendant had the like Sentence as is aforesaid, and to be disabled to execute the Office of Feodary, Coroner or Escheator of any County.

The Plaintiff being seiz'd in Fee of a Messuage call'd *Hornes*, and Lands held of the Mannor of *Hall-place* in *Hampshire*, which the Defendant *Stafferton* the Lord of the Mannor claim'd as escheated, and the Defendant *Greenway* the like in right of his Wife; and exhibiting his Bill in Chancery against them both to clear his Title; where a Trial at Law was directed, and the Plaintiff in the mean time to keep possession. *Stafferton* and *Greenway* combin'd together to get the Plaintiff out of possession; and *Stafferton* made a Lease to one *Stone* to try the Title: then *Greenway* enters, and becomes the Ejector; and having beforehand procur'd a Writ against himself, gets himself arrested in *Stafferton*'s presence, at the Suit of his Lessee, and *Stafferton* became his Bail. Then *Greenway* confess'd a Judgment, and a Writ of Execution being awarded, the now Plaintiff's Tenant was put out of

9 Car.
Oppressions
of a Feo-
dary by co-
lour of his
Office.

Bernard
vers. Staf-
ferton
Gen. & a
Practice to
get the
Plaintiff
out of Pos-
session.

Ann. 1633. of possession, and the Possession given to *Stafferton* and his Lessee; *Stafferton* possessing himself likewise of the Plaintiff's Goods. For this leud Practice they were both committed, and bound to their good behaviour during their Lives; *Stafferton* fin'd 1000 Marks, and to stand on a Stool at *Winchester* Assize with a Paper on his head delaring his Offence, and he to acknowledge the same; *Greenway* fin'd 200 l. to be set on the Pillory with the like Paper, and at *Winchester*, where also he was to be well whip'd.

Art. Regis
vers. Bow-
yer.

Slander of
the ABp of
Canter-
bury.

The Defendant, for reporting at *Reading* the Archbishop of *Canterbury* was under confinement for four Points, which he call'd High Treason, viz. Arminianism, writing to the Pope, and two odd Opinions about the Virgin *Mary* and her Midwife; and for spreading some other Reports about the Archbishop's corresponding with the Pope, and procuring him several yearly Remittances out of *England*, with a great deal of such stuff; was committed to *Bridewell*, there to be set at work during Life, never to go abroad, fin'd 3000 l. to be set in the Pillory at *Westminster*, in *Cheapside* (there to be burn'd in the Forehead with the Letters L. and R.) and at *Reading*, where both his Ears were to be nail'd thereunto; to have a Paper on his head; and to acknowledge his Offence at all three places.

Art. Regis
ore tenus
vers. Moor
Arm.

Erecti-
g new Build-
ings con-
trary to
Proclama-
tion, &c.

Hill. 9 Car. The Defendant, contrary to his late Majesty's Proclamation, about 13 *Jac.* built in the Parish of *St. Martins* in the Fields, upon new Foundations, seventeen Coach-houses and thirteen Stables, and seven other Houses, whereof five were upon new Foundations; tho while in building inhibited by the Commissioners for building: All which he hath continu'd standing; and in his now Majesty's time hath built several others. The Defendant was committed, and fin'd 1000 l. and to demolish the Buildings by *Easter*, on pain of 1000 l. more; and they were pull'd down accordingly.

Art. Regis
ore tenus
ver. Smith.
Same Of-
fence.

The Defendant, contrary to his Majesty's Proclamation, erected a House in *Lincolns-Inn Fields*, and converted it into two Houses, part upon a new Foundation, and part upon a Gunpowder-house set up 39 *Eliz.* which he did by the sufferance of the Commis-
sioners

ners for Buildings; And yet he was committed, fin'd 200 l. and to pull down the Houses by *Easter*, on pain of 200 l. more.

9 Car.

Two of the *Ridleys* came arm'd to the Relator's Barn-door, broke it open, thrust out the Threshers, lock'd up the door, and returning, set Threshers to thresh out the Corn there, and in other Barns and Stacks of the Relator's, and carried the same with a great quantity of the Relator's Hay to *Ridley* the Father's House. At another time *Ridley* the younger, with others of the Defendants arm'd, enter'd into the Relator's Tenant's house, and threatening to shoot and run them through that were in the House, kept possession by force: And the Relator coming thither to regain his Possession, he was resisted by divers other Rioters arm'd with Daggers and Swords, who likewise beat his Tenant's Wife and Servant, as they were collecting Tithes, and took the Tithes from them. All the Defendants were committed, and bound to their good behaviour; two fin'd 500 l. apiece, one 100 Marks, and six others 40 l. a-piece; but the Right to the Possession and the Damages were left to the Court of Wards.

Att. Regis
per Rel.
Apsley
Arm. verf.
Ridley &
al.
Riot.

The Defendant writ a scandalous Letter to the Earl of *Northumberland*, containing a Challenge, but appointed neither Time nor Place; he subscrib'd the Letter with his Name, seal'd it up, and sent it to the Earl, without acquainting any one with the Contents. The Court adjudg'd it to be both a Libel and a Challenge; and the Defendant was committed to the Tower during his Majesty's pleasure, fin'd 5000 l. to be bound to his good behaviour during Life, never to come within the Verge of the King's Household, saving during his Imprisonment; disabled to have or execute any Office; to acknowledg his Offence upon his knees to his Majesty and this Court, and make such Submission to the Earl of *Northumberland*, in presence of the Earl Marshal and such others as his Lordship shall call to him, and in such sort as the said Earl shall direct.

Att. Regis
ore tenus
v. Apsley
Arm.
Libellous
Letter and
Challenge
to the E. of
Northum-
berland.

The Defendant *Hilliard* having a Deputation from his Majesty's Commissioners to work for Salt-peter, yet with a Proviso to imbezzle none, but to deliver all he got to his Majesty's Powder-maker, according

Att. Regis
verf. Hilli-
ard & al.

to

Ann. 1633.

Contempt of
K's Com-
missioners.Tampering
with Wit-
nesses.Att. Regis
per Rel.
Vicecom.
Went-
worth, ver.
David
Fowlis
Mil. & al.Dissuading
men from
compound-
ing for
Knight-
hood.

to his Proclamation; the said *Hilliard's* Wife and Ser-
vants by his direction sold great quantities at four
pounds the Hundred, whereof *Hugh Nichols* bought
part; and *Hilliard* deliver'd not in the full quantity
he was to deliver. And tho forbidden by the Com-
missioners to work any longer, yet set up several
Works afterwards, and one in a County to which
his Commission extended not, and sold the Salt-peter
to others. And Witnesses being to be examin'd in this
Court against him and the Defendant *Goodenough*, they
persuaded a Witness to forswear himself, and said, it
was no Offence to God, if it were to save a Friend or
Kinsman; which *Goodenough* offer'd to prove out of
Scripture. Another Witness they procur'd not to be
examin'd, and others to set their hands to untrue Testi-
mony. *Hilliard* was committed during his Majesty's
pleasure, fin'd 5000*l.* disabled to be a Salt-peter man;
he and *Goodenough* to be bound to their good behaviour,
and set on the Pillory at *Westminster*, *Andover* and
Chippingham, with Papers on their heads; *Goodenough*
fin'd 1000*l.* to have his Ears nail'd, and be well whip'd,
and disabled to be a Witness; *Nichols* committed, and
fin'd 200*l.*

An Information was exhibited in this Court against
Sir David Fowlis, *Sir Thomas Layton* and *Henry Fowlis*
Esq; to this effect: That Commissions issuing, directed
to the Lord Viscount *Wentworth* and others, for
treating and compounding with such of the City and
County of *York* and other Northern Counties, as would
make fine for not attending his Majesty's Coronation
to have taken the Order of Knighthood, of which
Fines the Lord Viscount *Wentworth* was appointed
Receiver; the said Lord Viscount *Wentworth* and
other Commissioners summon'd *Ralph Ewre* and
James Pennyman Esqs; and others to attend them at
York, for such their compounding. The Defendant
Sir David Fowlis dissuaded them from compounding
with the said Commissioners, and publicly declar'd
his dislike thereof, with intent to cause men to forbear
making any Composition, and thereby encourag'd se-
veral to stand out; and in *July* 1632. at a publick
Meeting at the House of *Sir Thomas Layton* did affirm,
That *Yorkshire* Gentlemen had been in time past ac-
counted

counted bold-spirited men, who would have stood for their Rights and Liberties, and other Counties were then directed by their Example; but now they were become degenerate, and more dastardly and cowardly than the men of other Counties, and wanted their usual Courage and Spirit: and highly commended *James Maleverer* Esq; for refusing to compound with the said Commissioners; declar'd the said *James Maleverer* was the wisest and worthiest man in the Country, a brave Spirit, and true *Yorkshire* man; That the said *James Maleverer* had put in his Plea thereunto, and would easily procure his discharge both of the Fines and Issues: whereas the said *James Maleverer* had pleaded an insufficient Plea, and after he had paid 136 l. for Issues, at last compounded for his Contempt. And the said Sir *David Fowles*, to discourage men from compounding, alledg'd, That the Fines for Knighthood were higher in *Yorkshire* than in other Counties, and shew'd a List of the Names of several in *Buckinghamshire* and *Oxfordshire*, who refus'd to compound: He said Mr. *Ewre* and Mr. *Peimymen* had done themselves wrong by compounding, and the Country would hereafter be much troubled with such Impositions: That the People of *Yorkshire* ador'd the Lord Viscount *Wentworth*, and were so fearful of offending him, that they would rather undergo any Charge; but at Court he was no more respected than an ordinary man, and that as soon as his back was turn'd for *Ireland*, his Presidentship would be bestow'd upon another. And the said Sir *David Fowles* and the Defendant *Henry Fowles*, to hinder his Majesty's Service, and to make the Lord Viscount *Wentworth* odious, did oftentimes publicly affirm, That his Lordship had receiv'd much Money of the Country for Knighthood, but had not paid the same either to his Majesty or the Exchequer; whereas it appears by the Tallies and Constats shew'd in Court, that a year before the speaking of the words he had paid into his Majesty's Receipts for Knighthood Fines the Sum of 24500 l. besides 700 l. disburs'd of his own Money. And the said Sir *David Fowles* and *Henry Fowles*, in the presence of divers Knights, Gentlemen and others, affirm'd, That when the Lord Viscount *Wentworth* was gone into *Ireland*, such as had paid their

*Aspersing
Ld Went-
worth.*

Ann. 1633. their Fines to him, tho they had his Acquittance, would be forc'd to pay over the same again: That the Defendant *Sir Thomas Layton*, being High Sheriff of *Yorkshire*, had caus'd his Bailiff to levy 39 l. Issues of the Goods of *Mr. Wivel*, tho he had paid his Fine for Knighthood, and had his Lordship's Acquittance; and Complaint being made to the Council at *York*, that his Bailiffs had exacted forty shillings worth of the Goods of the said *Wivel's* Tenant for levying the said Issues, which, it was conceiv'd, might oppose his Majesty's Service, and the said *Sir Thomas Layton* being serv'd with the King's Letter to appear and answer an Information exhibited against him for the same; the said *Sir David Fowles* (being himself one of the said Council, and a Deputy Lieutenant and Justice of Peace) in the presence of divers Knights and Gentlemen, dissuaded *Sir Thomas Layton* (being High Sheriff) from yielding Obedience to the said Letter, till he knew the King's pleasure therein; saying in contempt of the said Court and Council, That the said Court was a Paper Court; That they could not justify the sending for the High Sheriff, and if he were in his case, he would not care a dog's hind for them; And that a Justice of Peace is above the Council at *York*, he being by Act of Parliament, they only by Commission.

*Vilifying
the Council
at York.*

*Sir David
Fowles's
Answer.*

The Defendant *Sir David Fowles* answer'd, That he hath been so far from opposing the Commission concerning Knighthood, that he hath advanced the said Service, and persuaded *James Makeverer* and others to submit and compound for their Fines; That he persuaded *Sir Thomas Layton* to appear before the Lord *Wentworth* and Council upon the King's Letter, and denieth the Words charg'd on him; confesseth he said he knew not how his Majesty would take it, to have a High Sheriff committed for executing his Majesty's Writ; confesseth, that upon Process issuing against *Mr. Wivel*, notwithstanding he had compounded, he said that if the Lord *Wentworth* had paid in what he receiv'd, he would have done well to take order that those who paid him might not be compell'd to make double payment.

Henry Fowles pleaded Not guilty.

Sir

Sir *Thomas Layton* answer'd, That a Letter was serv'd upon him (being then High Sheriff of *Yorkshire*) from the Lord President and Council; and within three days, and before he was in contempt, he was arrested by a Pursivant, and carried 30 miles to the Council, and restrain'd till he had answer'd an Information and Interrogatories, and paid *Wivel* the Mony levied upon him, and forty shillings pretended to be exacted by the Bailiff, being all that time High Sheriff; That he wav'd his Plea, that the Suit at *York* is still depending, and saith the forty shillings; if exacted, came not to his hands.

9 Car.
Sir Tho.
Layton's
Answer.

Upon full proof of all the Particulars aforesaid, the Court adjudg'd, That Sir *David Fowlis* should be committed to the *Fleet* during the King's pleasure, fin'd 5000 *l.* acknowledg his Offences to his Majesty and the Lord *Wentworth* in this Court, at the Court at *York*, and at the Assizes for *Yorkshire*, where this Decree shall be read; That he be incapable to execute the places of one of the Council of *York*, Deputy Lieutenant, or Justice of Peace, all which he now holds; and shall pay 3000 *l.* to the Lord *Wentworth*: *Henry Fowlis* was committed and fin'd 500 *l.* and Sir *Thomas Layton* (no proof being urg'd against him) was dismiss'd.

The Judg-
ment of the
Court.

The narrow Seas being infested with Pirates, the King *May 5.* declar'd his pleasure, That no Seafaring Man, Shipwright or Ship-carpenter should without His or the Admiral's Licence enter into the Service of any foreign Prince or State, or be imploy'd out of the Realm, unless in the service of his Majesty or his Subjects; and those already imploy'd by any foreign Prince should forthwith return: And that the Ships of his Subjects of *England* or *South Britain* shall carry in their Flags *St. George's Cross*, and of the Subjects of *Scotland* or *North Britain* *St. Andrew's Cross*; but the Union Flag, viz. Both join'd together, shall be carried only by the Ships of his Majesty.

Ann. 1634.
Orders con-
cerning
Seamen,
&c.

And the
Flags.

The Monys which were to come into the Exchequer upon the Composition with Recusants, fell far short of Expectation, especially in the North; where the King, instead of the third part, receiv'd little more than one part in eight or ten, nay sometimes no more than the 25th part; as in the case of *William Ander-*

Recusants
Compositi-
ons fall
short of Ex-
pectation.

Ann. 1634. *ton of Anderton* in the County of Lancaster Esq; who paid but 20 l. per annum, and his Estate was about 500 l. per annum. The King therefore bethought himself of some other way to raise Money for his occasions, and Mr. Noy found out Ship-mony for that purpose.

Mr. Prynne again brought into the Star-chamber.

June the 11th, Mr. Prynne was brought to the Bar of the Court of Starchamber, and Mr. Noy Attorney General inform'd them, That Mr. Prynne for his seditious railing Libel had been sentenc'd there, but had more favour than he deserv'd; He had been in prison, degraded, had his Ears cut off, and undergone all Shame; That he had been admitted to Pen, Ink and Paper, and had written a Letter or rather scandalous Libel to some of their Lordships, wherein he examines whatsoever was said at the hearing of his Cause; That being ask'd by him (the Attorney General) whether it was his writing or no, he answer'd, he could not tell, unless he read it; but being deliver'd to him, he tore it in pieces, and threw it out of the Window: That he had caus'd the scatter'd pieces to be gather'd up, and had brought them into Court. Then Mr. Prynne being ask'd by him whether he did tear it or no, he said, he would answer him nothing; but being ask'd the same question by the Lord Keeper, he said, he had submitted to his Censure, and carried himself in publick inoffensively; if Mr. Attorney exhibited any thing against him, he desir'd he might give a legal Answer to it: He hop'd the Court would be favorable; for what he wrote in private, was not intended to be publick: That he was subject to Passion, as others are. Mr. Noy desir'd he may be kept close Prisoner, and not to have Pen, Ink or Paper, nor go to Church, and he would proceed against him for this here. The Archbishop of *Canterbury* said, he had undergone a heavy Punishment; That he was heartily sorry for him; and for a man to be a close Prisoner, and want Books, Pen, Ink and Company, who knoweth how he may be infligated? He mov'd, he might have Books, and the privilege to go to Church (saith Mr. Prynne with a low voice, I humbly thank your Grace) The Lords said, they would consider of it. The Lord Ch. Justice *Richardson* mov'd he might have the Book of Martyrs, for the Puritans accounted him one. Mr. Prynne then desir'd the

the Archbishop, The might have the Books, which were seiz'd; who protested it was done without his privity, and that the Officer had no direction to seize any, but those question'd in Court, and promis'd to give a warrant to redeliver them.

But it seems the Archbishop of *Canterbury's* memory fail'd him, for within three days after the Execution of the aforesaid Sentence while Mr. *Prynne's* wounds were yet fresh and bleeding, and there was no Suit depending against him in the High Commission, and his Fine in the Star-chamber unassess'd, a Warrant was granted out of the High Commission Court under the hands of this very Archbishop (who hath he known nothing of it) Sir *Joh. Lamb*, Sir *Nathaniel Brent*, Dr. *Gulme*, Dr. *Arthur Dudgey* and Dr. *Robert Aylmer*, directed to *Thomas Grosse*, one of the sworn Messengers of his Majesty's Chamber, and also to *William Flansted*, his Deputy, and to either of them, and subscrib'd by *Thomas Atterfylde* Deputy of Sir *George Poulter*, the Register, requiring them with a Constable and other Assistants to enter into the House of *Thomas Edwards* in *Holborn*, and to search for, seize and detain Mr. *Prynne's* Books and Writings, and bring them a true Inventory thereof. By Virtue of which a whole Cart-load of Mr. *Prynne's* Books (which he had sent to the House of the said *Edwards* his Taylor) were seiz'd and carried away by *Grosse*; and tho' the Archbishop promis'd his Warrant to redeliver them, yet they were detain'd till extended and sold for his Fine in the Star-chamber.

10 Car.

Prynne's
Books
seiz'd, and
sold for his
Fine in the
Star-cham-
ber.

The Bishop of *London* designing to impose the *English* Liturgy on the *English* Regiments and Companies in foreign parts, offer'd these Proposals to the Lords of the Council: 1. That the several Colonels in the *Low Countries* should entertain no Minister or Preacher, but such as conform to the Church of *England*, and be commended to them from their Lordships by the Advice of the Archbishop of *Canterbury* or *York*. 2. The like for the Company of Merchants, or in any other foreign Parts. 3. If any Minister that hath got himself to be recommended, afterwards be found unconformable, and amend not within three months after warning given him by the Colonel or Deputy Governor of the

Proposals
offer'd by
the Bp of
London
concerning
English
Preachers
in foreign
Parts.

Ann. 634. Merchants, he shall be dismiss'd. 4. That every such Minister or Preacher shall read Divine Service, christen, administer the Sacrament, marry, catechize, visit the sick, bury, and do other duties, as is prescrib'd in the Common Prayer, or not continue Preacher to any Regiment, or to the Merchants. 5, 6. That if any Minister or Preacher, being the King's Subject, shall in any Parts beyond the Seas defame, or publickly speak, write, print or divulge any thing derogatory to the Doctrine, Discipline or Government of the Church of *England*, or the Temporal State and Government, the King's Ambassador or Agent in those Parts is to be inform'd thereof, and shall certify it, that he may be recal'd by Privy Seal. 7. That no Colonel or Deputy Governor of the Merchants shall suffer their Minister or Preacher to bring any other Minister to preach for him, than such for whose Conformity he will be answerable. 8. That none shall be chosen or sent over by the Merchants here to *Delf*, or any other Place beyond the Seas, but such a man as is conformable to the Church of *England*, and shall be careful that those under his Government perform all Church duties. 9. That whenever the Merchant-Adventurers renew their Patent, there be a Clause inserted, to bind them to the observance of so much of these Instructions as shall be thought fit. In pursuance hereof the Archbishop of *Canterbury* June the 17th writ to the Merchants at *Delf*, that by his Majesty's Command he signify'd to them, that the Bearer Mr. *Beaumont*, chosen by their Company to be their Preacher at *Delf*, or where else they should reside, was a learned, sober and conformable man; and they were to receive him courteously, and allow him the antient Stipend: That his Majesty commands them all to be conformable to the Doctrine and Discipline of the Church of *England*, and to frequent Common Prayer as well as Sermons, and at every *Easter* to chuse Churchwardens and Sidesmen; and commands Mr. *Beaumont* to observe all the Orders of the Church of *England*, as prescrib'd in the Canons and Rubricks: And if any of their Company shall be refractory, he is to certify his Name to the Bishop of *London*. And they were to deliver a Copy of these Letters to Mr. *Beaumont* and his Successors; that they may

may know what his Majesty expects from them.

There having been a Decree made by the Star-chamber concerning Farthing Tokens, wherein Sir Francis Crane was Plaintiff against William Hawks and others (among other things) taking notice of the great Abuse in forcing poor Labourers many times to take their whole weeks Wages in Farthings, from such as buy great Quantities at low Rates; which said Farthings were made chiefly for the relief of the Poor, and for Exchange in small Sums, and declaring the inforcing of Farthing Tokens in any payments whatsoever to be contrary to his Majesty's Letters Patents and Proclamation, and the buying them at a less rate than they are usually vend'd by the Patentees to be unlawful; and that the Offenders should be severely punish'd: It was order'd by the said Court, that that part of the said Decree should be printed and publish'd with this Order.

10 Car.

*Order of
Star-cham-
ber concern-
ing Far-
thing To-
kens.*

In Mich. Term this year Sir Robert Heath was remov'd, and Sir John Finch sworn Lord Chief Justice of the Common Pleas; and the Writ for Shipmony coming forth four days after it was concluded, he was to advance that business. At the time of his Instalment, the Lord Keeper Coventry made a Speech to this effect, viz. That his Majesty calling to mind his Services to himself and the Queen, his Learning and Dexterity, had appointed him to succeed as Chief Justice; That he hath cause to acknowledg with David, his Cup doth overflow: The Gifts of Princes, tho they are *sine aliquo reddendo*, yet they are not to be reckon'd so by them that have them, but are to put them in mind of the Service due from them. He compared the King to King E. 1. that great Law-giver, for the Justice and Uprightness of his Heart: For as the Subject owes Obedience, so the King Protection and Justice: And the *debitum Justitie* being too heavy a burden for a King, a part of it is laid upon the Judges, who are under three bonds, *debitum Patrie*, *debitum Regi*, and *debitum Deo*: and this last in three respects; *ratione Juramenti*, which hath immediate relation to God; *ratione Loci*, for God sits in the seat of Judges; and *ratione Judicii*, for their Judgment is God's, if they are upright. So as it may be said of their places as Jacob

*Sir John
Finch Ch.
Justice of
the Com-
mon Pleas.*

Ann. 1534. said of Bethel, *How dreadful is this Place! This is the House of God.* He said that *Communia Placita*, the Pleas of the People, are the proper Objects of this Court. He recommended to him, 1. Extraordinary Diligence in dispatching the multitude of Business in this Court. 2. Great Patience in matters brought before him. 3. Caution in discerning Right from Wrong. 4. Expedition, for *nulli deferemus* is coupled with *nulli negabimus*, *nulli vendemus* *Justitiam*; and none can tell which is the worst of the three. He advised him in all his Judgments to insist *super antiquis vias*, the ancient ways of the Common Law; and to give all encouragement to the expert Clerks of this Court; for good Pleading is one of the most honorable things in the Law, for want of which a multitude of just Causes have been overthrown. He gave him two *Memoros*: 1. That for the honour of this Court, the Process of this Court is *coram Justiciariis*, without addition, which for the most part diminishes. 2. That he remember his Predecessors, who have been as Reverend men as ever sat in any Court. Whereunto the Lord Chief Justice *Finch* answer'd to this effect, *viz.* *Levis est dolor qui consilium capere potest*, and great joy breeds no less perturbation of Thoughts. He said he appear'd like one shut up in a dark room, upon whom a great Light on a sudden hath broken in; That he had spent 34 years in the Study and Practice of the Common Law; Six years he bestow'd in the Books of Law, but then was diverted by his Resolutions for foreign Employment, till by the Lord of St. *Albans* (into whose hands the Great Seal was put) he was invited to the practice of the Common Law: His fall and other misfortunes drew him from his Study; but he afterwards turning his hand to the Plough again, and stooping *Aratura* like at the Ball of Profit, and neglecting the Goal of Honour, the Heart of his gracious Master inclin'd towards him: That there are three grave and learned Judges well vers'd in the ways of this Court, and he shall see with their Eyes, hear with their Ears, and speak with their Tongues, till his own Observation and what he should hear by them should make him more substantial. In the Gospel Christ's Coat is said to be without Seam; and in the *Psalms*, The Queen's Vesture was of divers colours:

colours: upon which one of the Fathers observes, *In veste varietas, Scissura nulla*. He said, sometimes we may differ in Opinion, but our Hearts shall be like our Robes; That his Majesty at his first Access to the Crown made him one of his Council, and then recommended him to the Service of the Queen; afterwards prick'd him out to the Parliament to serve him and the Commonwealth, and (which was never before known) gave him means to support it: That he began to think of what *Demosthenes* said to the People of *Athens*, when they chose their Officers, to take up Thoughts fit for the Greatness and Dignity of this Place: That he remembers the Judges which *Jehoiada* commended to *Moses*, and should hate all base and sordid Thoughts; and for Uprightness between man and man he should need no other Argument than that his Majesty likes those Servants best, that best distribute his Justice to his People.

The first Writ for Shipmony directed to the Maritime Counties and Places was to the effect of this which follows, directed to the Mayor, Commonalty, Citizens, Sheriffs, &c. of London, viz. His Majesty understanding that *Turkish* and other Pirates, take the Ships and Goods of his Subjects, and the Subjects of his Friends, in the Sea which was accusom'd to be defended by the *English* Nation; and have carried the men into Captivity, and are daily preparing more Shipping for that purpose; and considering the danger that hangs over his and his Subjects heads: He therefore being willing to provide for the defence of the Kingdom, safeguard of the Sea, security of his Subjects, and safe conduct of Ships and Merchandizes coming to and passing from the Kingdom of *England*; forasmuch as he and his Progenitors have been always heretofore Masters of the afore said Seas, and considering that those on the Sea-coast, to whom the dangers of the Sea are most imminent, and are the greatest Gainers by the Sea, are chiefly bound to set to their helping hand; He commands the said Mayor, &c. upon their Allegiance, and under the forfeiture of all they can forfeit, to prepare and bring to *Portsmouth* before the first of *March* next one Ship of War of 900 Tuns with 350 men, one other of 800 Tuns, with 260 men; four others each

10 Car.

The first
Writ for
Ship-mony.

Ann. 624.

of 500 Tuns, with 200 men; and one other of 300 Tuns, with 150 men, as well expert Masters as able and skilful Mariners; and to furnish them with Ordnance, Gunpowder, Arms, double Tackling and Victuals, till the said first of *March*, and from that time for 26 weeks, at the Charges of the said Mayor, &c. as well in Victuals as Wages, under Command of the Admiral, to go from thence with his and his Subjects Ships for the safeguard of the Sea, their own Defence, and the vanquishing of such as should molest his Merchants, or others coming into his Dominions for cause of Merchandize, or returning. And he assign'd the said Mayor and the Aldermen of the said City, or 13 or more of them, to assess all men in the said City and Liberties thereof, not having a Ship or any part of the said Ships, to contribute to the Expence, according to their Estates, and to appoint Collectors; and he assign'd the aforesaid Mayor and Sheriffs to levy the Assessment by Distress or other due means, and to imprison the rebellious and contrary Persons, there to remain till his further order: But to levy no more than what should suffice for the necessary expences of the Premises; and no part to be detain'd or appropriated to other uses; and if more than sufficient be collected, it is to be paid out among the Contributors, according to their respective Proportions.

*Instructi-
ons for
assessing
and levying
of Ship-
mony.*

The Writs going the next year into the Inland Counties, Instructions were sent from the Council into every County, to this effect, *viz.* That whereas his Majesty had sent his Writ to the High Sheriff of the County of *Middlesex*, and the High Sheriff of the County of *Hartford*, and to the Mayors and other Head Officers there, to provide one Ship of 250 Tuns besides Tunnage, to be furnish'd with Men, Tackle, Munition, Victuals, &c. for the safeguard of the Seas and defence of the Realm; they were by his Command to let them know, that he hath sent out the like Writs into all the Counties, Cities, and Towns throughout the Kingdom: That as all are concern'd, so all might put to their helping hands. He requires their care and diligence therein, as a matter so just, honourable and necessary;

for

for which cause they have, by his Majesty's Directions, sent the following Instructions, which the Sheriff of *Middlesex* is to communicate to the Head Officers of the Corporate Towns in that County: 1. That they make their Assessments for each of the said Counties, towards the setting forth the said Ship; and for their better Directions they let them know, they find upon a just valuation the charge of such a Ship furnish'd would be 3300 l. whereof they think fit the County of *Middlesex* bear 1800 l. and the County of *Hartford* 1500 l. of which 1800 l. *Westminster* and the Liberties to bear 350 l. and the rest of the County the Residue. 2. That they subdivide the general Assessments into particular ones, upon Hundreds, Lathes, Parishes and Towns, and the Towns and Parishes to be rated by the Houses and Lands, as is accusom'd; and Cottagers and poor People are to be eas'd, the contrary whereof hath been done to raise Clamors and prejudice the Service. To this end no Person is to be assessed who hath not an Estate in Mony or Goods, or other means to live by, over and above his daily labour: That men of Ability, by reason of their Trades, Stocks or otherwise, altho they have little or no Land, be rated according to such their Ability, for the freeing of the Poor, and easing of such as have many Children or great Debts; and in Corporate Towns, a poor Man not to be set according to the usual Tax of his House, at a greater rate than others of much more Wealth. 3. That the Sheriff issue out his Warrants to the Constables, requiring them to call unto them some of every Parish, Town or Tything, to consider how the Sum charg'd on each Hundred may be divided, and return the same in writing under their hands; and the Sheriff then to sign the Assessment set on the several Persons, which may be alter'd by him if he finds an Inequality; and keeping a Copy thereof, to give order for the Collection and levying thereof by the Constables of Hundreds, Petty-Constables, and others, as in such cases usual; and upon refusal or neglect of payment, to levy the same by Distress, with the Charges, rendering back the Overplus: And the Head Officers of Corporate Towns, are by themselves and their Ministers to do the like as

Ann. 1634.



the Sheriff. That the Sheriff and such Head Officers express how much every Clergyman is rated for his mere Ecclesiastical Possessions, and how much for his Temporal and Personal Estate, and to send to this Board under their hands, within a month, a Certificate of what is set on every Parish, and particularly upon every Clergyman, 4. Altho his Majesty is resolv'd to maintain the due Privileges of the Clergy, yet it not appearing hitherto what those Privileges are that have been formerly allow'd them touching such payments, they are to be assess'd for the present, and the Assessments levied as upon others, but with respect to their Persons and Calling, without Inequalities put upon them. And if any Clergyman finds himself justly griev'd, upon Complaint to the Diocesan, Chancellor, or such as the Diocesan shall appoint, the Sheriff or Head Officer, with some of them, shall hear the Complaint, and (if there be cause) relieve him; but if the Complaint be causeless, the Diocesan shall punish him. 5. If any Constables, &c. refuse or neglect to do their Duties, they are to be bound over to answer their faults at the Board; and if any of them refuse to be bound, they are to be committed, and others to be employ'd in their rooms. 6. They are to proceed against refractory Persons presently, according to his Majesty's Writ, and not defer meddling with them to the last, as was done by some Sheriffs in former years, whereby all the trouble was cast upon the end of the year. 7. For all other matters the Sheriff is to govern himself according to his Majesty's Writ, and that with speed; for whatsoever he should leave unlevied should not be cast on his Successor, but should be levied upon himself by warrant from his Successor, or some other warrant: That he is to pay the Money levied and collected at *London* to the Treasurer of the Navy, who is appointed under the Great Seal for that purpose; and that he require the Head Officers of Corporations to do the like, or to pay it to him the said Sheriff, to be sent up with the rest.

The City's
Petition a-
gainst
Ship-money.

At a Common Council held at *Guildhall* the 2d of *Decemb.* 1634 upon consideration had of the aforesaid Writ for providing seven Ships, the City agreed upon a Petition to be presented to his Majesty, setting forth, that

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that they conceive that by antient Privileges, Grants and Acts of Parliament, they are exempt, and are to be freed from that Charge; and praying they may enjoy the said Privileges and Exemptions, and be freed from providing the said Ships and Provisions.

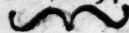
10 Car.

At the same Common Council it was order'd, that the words (so far as in them lieth) inserted in an Act of Common Council of the 19th of *Novemb.* last, upon a submission by this Court to his Majesty's Award, touching the difference between the Parsons and Vicars, and the Parishioners of the several Parishes of the said City, shall be expung'd; and the said Act of Submission be certified to his Majesty, without those words [and that this shall be a sufficient Warrant for the Clerk for the doing thereof] And that several Aldermen and others in the said Order nam'd, should consider of the matters complain'd of by the Parsons and Vicars of *London*, in their Petition to his Majesty against the said Parishioners touching Tithes, and of fit Answers to be made to the same, and what requests are fit to be presented to his Majesty from the City touching the said Business. Which Petition of the Parsons and Vicars of *London* to his Majesty, mention'd in the said Order, was to this effect: That the Benefices in *London* were, a 100 years since very great; that the Decree for Tithes now in force provides nine pence in the pound, notwithstanding which Decree they are now very poor and mean, many not worth 40 *l.* the rest not worth 100 *l. per annum*, only *Christ-Church*, a City Impropriation, worth 350 *l. per ann.* That the Petitioners have no means allign'd in the Decree, for discovering the true value of the Rents by the Oaths of the Parties; and many *London* Landlords contrive double Leases or make Provisoos, wherein they call some small part of the true Rent by the name of Rent, and the rest (which is yet quarterly paid) by the name of Fine or Income: Which Practice was in the year 1620, signified by the Bishops and Heads of Houses to be unjust and sacrilegious. And the Lord Mayor being their ordinary Judg, they want ability and leisure to appeal to the Lord Keeper, or to wage Law with rich and powerful Citizens; and they humbly pray relief from his Majesty. This

Petition

The Ministers of London petition about Tithes.

Ann. 1634.



Petition the King refer'd to the Archbishop of *Canterbury* and others, to end the difference if they could, or to report to his Majesty where the impediment lay : And the Cause coming to be heard the 5th of *Novemb.* before his Majesty in Council, and it appearing that Tithes were then only demanded of some particular Men, but the Case concern'd the City in general : His Majesty demanded of Mr. *Recorder* and some Aldermen present, whether they would refer the Cause to his Arbitrement ; but they desiring time to acquaint the Lord Mayor, Aldermen and Common Council therewith, his Majesty gave them respite to the 16th of the same Month. On which day his Majesty sitting in Council, the Recorder represented to his Majesty, It appear'd by Record, that in the Reign of K. H. 8. in the same Cause, upon like directions then given by the Council-Board, the Cause was propos'd to the several Wards, and the Common Council having receiv'd their several Answers, submitted to the Course set down. Whereupon he mov'd that the same Course might be now taken, in regard the Common Council meddles not with the Right or Interest of any. But Mr. Attorney General alledging Precedents as antient as E. 4. where the Common Council had order'd Business of this nature, his Majesty declar'd he would not wait for the Issue of such a Proceeding, but expect a direct Answer from the Lord Mayor, Aldermen and Common Council, which is the representative Body of the City, and appointed the 23^d of that month for their next Attendance. After other Attendances, and the Order of the Lord Mayor, Aldermen and Common Council, herein before recited, the Bishop and Ministers of *London* having under Hand and Seal tender'd their submission to his Majesty, and the City having the 14th of *Decemb.* presented their submission likewise to his Majesty in Council ; Sunday the 18th of *January* was appointed for the hearing of this Cause at large, at the Council-Table, before his Majesty.

Refer'd to
the King.

Conformity
press'd up-
on the
Dutch and
French
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The Archbishop of *Canterbury* in his Metropolitcal Visitation, summon'd the Ministers and Elders of the *Dutch* and *Walloon* Churches, to appear before his Vicar-general ; and they were enjoin'd, 1. That they should

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should repair to their several Parish-Churches. 2. But yet those of them that were not born the King's Subjects, or any other Stranger, might use their own Discipline; however the *English* Liturgy should be translated into *French* and *Dutch* for the use of their Children. The *Dutch* and *Walloon* Churches at *Norwich* hereupon presented a Petition and Remonstrance to the Bishop of that Diocese, shewing that this was opposite to several Orders of the Privy Council, to the Privileges granted them of old, and continu'd during the Reigns of K. E. 6. Q. Eliz. and K. Jam. and to his now Majesty's Royal Word given them the 30th of April, 1625. But finding no Redress, they petition'd the Archbishop of *Canterbury* to the same effect; whose Answer was, That his Majesty was resolv'd his Instructions should hold, and Obedience be yielded by all the Natives after the first Descent, who might continue in their Congregations; but that all of the second Descent, born in *England*, should resort to their Parish Churches: Concluding, that he expected their Obedience and Conformity; but if they refus'd, he should proceed against the Natives, according to the Laws and Canons Ecclesiastical. By these Injunctions the Foreign Churches for refusing Conformity were molested several years together, and some of them, Ministers and others, deserted the Kingdom.

This Year being the first of Bishop *Land's* Translation to *Canterbury*, great offence was taken at his setting up Pictures in the Windows of his Chappels at *Lambeth* and *Croydon*, the Portraiture being made according to the *Roman* Missal, his Bowing towards the Table or Altar, and using Copes at the Sacrament, which the People clamour'd against as popish, superstitious and idolatrous; and the Archbishop being some years after question'd in Parliament for matters of the like nature, made for himself the following Defence.

Offence taken at the ABp's setting up Pictures in Church-windows.

As to his setting up Images and Pictures in his Chappel at *Lambeth*, and (among others) the picture of Christ hanging on the Cross between the two Thieves; of God the Father in the form of a little old Man, with a Glory, striking *Myriam* with Leprosy; of the Holy Ghost in the form of a Dove, of

His Defence.

Ann. 1634.

the Resurrection, Ascension, &c. the pattern whereof Mr. Prym said he took out of the Mafs-Book: He answer'd, 1. He did not set up the Images, but found them there. 2. He only repair'd the Windows which were broken, and the Chappel which lay so nasty before that he could not resort to it without disdain, which caus'd him to repair it to his great Cost. 3. He made up the History of those old broken Pictures, by the help of the fragments of them, and not by the Mafs-Book. 4. He never knew they were in the Mafs-Book, till Mr. Prym shew'd them at this Bar. 5. Mr. Calvin himself allows an historical use of Images, *Inst. l. i. cap. ii. Sect. 12.* 6. Our Homilies allow the same, pag. 64, 65. 7. Tertullian saith, the Primitive Christians had the Picture of Christ engraven on their Chalice, in form of a Shepherd carrying home the lost Sheep on his back. 8. He hop'd the repairing and setting up of these Pictures was no High Treason. 9. Images and Pictures in Arras or Glas Windows, are not within the Statute of 3 E. 6. c. 10. but Statues only.

Reply.

To this it was reply'd: 1. He did not find those Images entire, but broken and demolish'd at the beginning of the Reformation, and so had continu'd as monuments of our Detestation of them. 2. *Habemus confitentem reum*, the Archbishop plainly confessing what he is charg'd with, viz. the repairing of the broken Images of Christ and the Holy Ghost, and justifying the Fact: And Mr. Brown his own Joyner attests, he directed him to repair the broken Crucifix in Croydon as well as Lambeth Chappel: And the Archbishop confesseth, he had no great Devotion to resort to Lambeth Chappel till these Images were repair'd and beautified. 3. He new made these Pictures and Stories out of the broken fragments to his great Cost, whereas he might have new glaz'd it with unpainted Glas for the tenth part of the Charge. 4. The Mafs-Book produc'd wherein these Portraiture are, is his own, and noted in every Page almost with his own hands, and he must of necessity have seen them there, notwithstanding his bold Protestation to the contrary. And we may conclude he took his Pattern from thence, seeing he produces no other Pattern. 5. He now flies to

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Mr. *Calvin* for shelter, whom he hath heretofore so traduc'd and revild; but quite perverts his words against his meaning; for Mr. *Calvin* saith, Images of Men or Beasts may be made for a civil use: *ergo*, saith the Archbishop, Mr. *Calvin* holds it lawful to make the Picture of Christ, and of his Nativity, Passion, &c. of God the Father like an old Man, of the Holy Ghost in form of a Dove, &c. whereas Mr. *Calvin* in express words in the very same place, condemns the representing of God in a visible Shape, and the introducing of Images into Churches; and many such like Passages that Author hath, which argues in the Archbishop extreme Ignorance or Falshood. 6. Impudence, it self would blush at the Archbishop's citing our Homilies, to justify the historical use of these Images in his Chappel, when the third part of the Homily against the peril of Idolatry, pag. 41, 42, 43, resolves it unlawful to make the Picture of Christ, or any Person in the Trinity. 7. That the Primitive Christians had the Picture of Christ in their Churches and engraven on their Chalice, is a notorious Falshood: For all the Fathers and Antients agree, that the first Christians had no Images in their Churches, and several Councils and Emperors demolish'd and cast them out of Churches. *Lactantius* and others say, there can be no Religion where any Image is; and *Epiphanius* rent the Image of Christ or some Saint, which he found in a Church. And our own Homilies against the peril of Idolatry, Part 2. pag. 38. affirm, that when Images began to creep into Churches, they were written against by the Bishops, &c. condemn'd by Councils, and destroy'd by Christian Emperors. Nor do *Tertullian's* words import, that the Primitive Christians had the Picture of Christ upon their Chalice; and he is so far from defending Images, that in his Book *De Idololatria*, he condemns the very carving or painting Images, or making any Image or Picture for any use, as contrary to the second Commandment. 8. The setting up of these Glass Images is not High Treason simply in it self, but as it concurs with his other practices to subvert our Religion and Laws, and set up Popery. The second part of the Homily against the peril of Idolatry, pag. 37. assures

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Ann. 1634. assures us, that the maintenance of Images hath brought in a Sea of Mischiefs, Schifms, Rebellions and Treasons, and his maintaining them hath done the like. 9. The Statute of 3 E. 6. c. 10. which commands the defacing and destroying all Images of Stone, Timber, Alabaſter or Earth, extends to Images in Glaſs Windows, which are but painted Earth: and the Homilies againſt the peril of Idolatry (the occaſion of this Law) and the Injunctions of Q. Elizabeth made in purſuance of it, extend in direct terms to Images in Glaſs Windows; yea the practice of defacing them, and the Statute of 3 Jac. c. 5. which reckons up Images and Crucifixes among the Relicks of Popery, prove what Images were meant, for Popery may creep in at a Glaſs Window as well as at a Door.

*His ſetting
the Com-
munion-
Table N.
and S. &c.*

As to his removing and railing in the Communion-Table in *Dambeth* Chappel Altarwiſe, with the two ends North and South againſt the Wall, and furniſhing it with Baſons, Candleſticks, &c. and hanging a Cloth of Arras behind it, with the Picture of Chriſt and his Apoſtles eating the Lord's Supper:

*His De-
fence.*

The Archbiſhop answer'd: 1. Q. Elizabeth's Injunctions preſcribe, that the Holy Table be ſet in the place where the Altar ſtood, which was generally in all Churches at the Eaſt end of the Quire, North and South cloſe to the Wall. 2. The Furniture on the Altar is no other than ſuch as is uſ'd in the King's Chappel in *Whitehall*. 3. The Arras-piece at the back of the Table was fit for that Place and Occaſion; and ſuch Representations are lawfully approv'd by the *Lutheran* Churches, yea by Mr. *Calvin* himſelf, for an hiſtorical uſe, in the place before-cited.

Reply.

To this it was reply'd: 1. That neither Q. Elizabeth's Injunctions, the Rubrick of the Common-Prayer, nor Canons of our Church, preſcribe the railing of the Communion-Tables, or placing them Altarwiſe againſt the Wall, with the ends North and South: That it cannot be prov'd, that they were generally ſo plac'd and rail'd in antiently; and the Communion-Tables were generally plac'd in the miſt of the Quire or Chancel, with the ends Eaſt and Weſt, ſtanding a convenient diſtance from the Wall without any rail,

until

until this Popish Innovation by the Archbishop, which tends to the introducing private Mass, by removing the Table as far as possible from the View and Audience of the People, when the Sacrament is celebrated.

2. This Altar-furniture of Candlesticks, Tapers, &c. is borrow'd from the *Roman Pontifical*, and *Popish Council of Aix*. Our Homilies, and *Q. Elizabeth's Injunctions*, *Injunct. c. 23, 25.* condemn those and the like Altar-Trinkets as superstitious, ethnical, popish, and tending to Idolatry and Superstition. And the King's Altar-furniture in his Chappel can be no extenuation of his Offence, which (being Dean thereof) he ought to have reform'd. 3. The Arras-hanging was rather suted to the Crucifixes in the Glass Window over it, and other Images in his Chappel, than to the Lord's Table where it hang'd, the Table and sacramental Elements being enough to mind us of Christ's last Supper, Passion and Death, without Image or Crucifix, which have been exploded by all Antiquity, and by Mr. *Calvin* and many *Lutherans* too; and no Warrant nor Precept for it but only in the *Roman Ceremonial*, pag. 69, 70.

As to his setting up of a *Credentia* or Side-Table, his own and his Chaplains bowing towards the Table or Altar, and their using of Copes at the celebration of the Sacrament and consecration of the Bishops; That the Person who administer'd the Sacrament, took the same in his hand from the *Credentia* (where it was first laid) and kneeling down upon his Knee, presented it, and laid it on the Lord's Table, on which were Candlesticks and Tapers, tho not burning:

The Archbishop answer'd: 1. That he took his Pat- *The Abp's*
tern of the *Credentia* from Bishop *Andrew's* Chappel. *defence.*

2. That bowing towards the Altar was us'd in the King's Chappel and many Cathedrals in Queen *Elizabeth* and King *James* their Reign. 3. That at the Administration of the Sacrament in all Cathedral and Collegiate Churches upon principal Feast-days, a decent Cope is by the 24th Canon, 1603, prescrib'd to be us'd by the principal Minister: therefore this is no Innovation.

To this it was reply'd: 1. Sir *Nathaniel Brent* and *Reply.*
Dr. Featly depos'd there was no such *Credentia*, bowing
towards

Anno 1634. towards the Table, or Cope us'd in *Lambeth* Chappel in the Archbishop's Predecessors time; nor is it prov'd that Bishop *Andrews* had any such Utensils, Vestments or Bowing in his Chappel; and if he had, his Chappel is no Pattern for him to follow, against our Homilies, Injunctions, &c. but is as grossly Popish as the Pope's Chappel. As for the *Credentia*, it's taken out of the *Roman* Ceremonial, Pontifical and Missal, among the Rites of celebrating Mass. 2. This bowing towards the Altar, was never prescrib'd by our Articles, Homilies, Injunctions, Canons, &c. nor practis'd till of late by some Popish Court-Doctors, never us'd by his Predecessor or his Chaplains, introduc'd by *Papists* at first, in adoration of their breaden God, and enjoin'd by the *Roman* Missal. 3. The Book of Common Prayer prescribes not any of these things, but excludes the use of Copes; and our Homilies, and best Writers condemn them as *Jewish*, *Popish*, *Paganish*; and the third part of the Homily against the peril of Idolatry, saith, that because the whole Pageant might be thoroughly play'd, it's not enough thus to deck Images and Idols with Gold, Silver and rich Apparel; but at last comes in the Priests themselves, likewise deck'd with Gold and Pearls, and fall down on their Marrow-bones, and their gorgeous Altars too. And as to the 24th Canon, 1603. to warrant the use of Copes: 1. That Canon extends only to Collegiate and Cathedral Churches. 2. It enjoins a decent Cope, not a gawdy one, with Images and rich Imbroidering. 3. This Canon is void in Law, being never confirm'd by Act of Parliament, and crossing both the Common-Prayer-Book and Homilies.

A Pamphlet dispers'd at Edinburgh.

Ld Balmerino condemn'd for it.

Some of the *Scots* who were Members of the Parliament at *Edinburgh*, *Anno* 1633, and were against the Act for wearing of Whites, &c. being discontented, a Pamphlet came out with some of their Privy, charging his Majesty with undue gaining of Votes to obtain that Act. The Author whereof was found to be one *Hagg*, who escap'd beyond the Seas; but it was afterwards fasten'd upon the Lord *Balmerino*, who was try'd and condemn'd for it, but the King restor'd him to his Honour, Life and Estate. His Father had been Secretary to King *James*, and was

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was accus'd for shuffling a Letter of his own contriving from King *James* to Pope *Clement*, in favour of the Catholics, for which *Balmerino* the Father was accus'd of High Treason, and condemn'd, but was pardon'd by King *James*, wherein the Friends of *Balmerino* (who were dissatisfy'd with that Sentence) conceiv'd he had no more than Justice done him; for when once that Letter was discover'd, it was thought fit to be fasten'd upon some body.

About this time happen'd a great Battel in Germany. After the disorder of the Imperial Army by *Wallestein's* murder, the *Swedes* having gotten almost half Germany, the King of Hungary, the Emperor's Son, headed the Imperial Army; but the Emperor standing in great need of his Allies and Friends, the Cardinal Infanta came from *Milan* with the old Spanish, Italian and Burgundian Regiments through Switzerland, and joining with the Imperialists, march'd into the Dutchy of *Wintemburgh*, but *Nordlingen* a strong Garison gave a stop to their Advance. *Gustavus Horn* join'd with Duke *Bernard*, and advis'd rather to spare the Enemy a Town or two than to hazard a Battel. At a second Council of War it was resolv'd again not to fight, but to stay till the Rhinegrave with his 4000 men were come: But *Septemb. 4.* the Field-Marshal *Cratz*, and Major-General *Kagg* arriving to the assistance of the *Swedes*, Duke *Bernard* resolv'd to fight without the Rhinegrave. *Septemb. 6.* before six in the morning, the *Swedes* assaulted the Imperial entrench'd Army with great fury, and took some of their Ensigns and Cannon, and one of their Sconces, where two Regiments of *Swedes* were blown up, either by a Mine, or firing the Gunpowder in the Sconce. The *Swedes* march'd on to the body of the Enemy, who had hid the remainder of their Cannon behind some Bushes; and when the *Swedes* approach'd, discharg'd them all at once, which made an incredible Slaughter. This so daunted the *Swedes*, that in two hours the Imperial Horse obtain'd an absolute Victory, 2000 *Swedes* were cut off, 4000 *Wintemburghers* put to the Sword, and 2000 lost at the Sconce; the *Swedes* lost all their Cannon, being 80 pieces of Ordnance, 300 Colours, their Waggons, Bag and Baggage, and

Cardinal Infanta marches to assist the Emperor.

Battel near Nordlingen.

Swedes & verthrowen.

Ann. 1634.

They rally
and get up
an Army.

Their Ma-
jesties Pro-
gress to the
North.

Some Privy
Counsellors
Popish Re-
cusants.

The King's
Letters of
Grace for
Popish
Recusants.

Gustavus Horn taken Prisoner. Duke *Bernard* was wounded, and retir'd to *Helbrun*; 1000 *Swedes* Horse escap'd to the *Rhinegrave*, who joining with *Baniere* had got a considerable Army, and met with some of the *Infanta's* Army, of whom many were either kill'd or taken Prisoners.

Both their Majesties made a Progress North of *Trent*, and were nobly entertain'd at *Bolshover* Castle in *Derbyshire* by the Earl (afterwards Duke) of *Newcastle*, who sent for all the Gentry of *Derbyshire* and *Nottinghamshire* to wait upon their Majesties, who came with great chearfulness: His expence then and in entertaining the King at *Welbeck* was computed at 10000*l*. This Earl, when the Wars broke out, adventur'd all for the King, and his Estate was sold by the Parliament for 111523*l*. 10*s*. 11*d*. besides other great Losses.

It was usual in those days, by the intercession of the Queen, Queen Mother, and Privy Counsellors, who were then suspected to be, and afterwards died of the *Romish* Religion, as the Lord Treasurer *Weston*, Lord *Cottingham*, &c. for the King to grant Letters of Grace, directed to the Judges of *Affize*, Justices of Peace, Mayors, Sheriffs, Clerks of *Affize*, Bayliffs, Constables, Informers, for staying the prosecution of Recusants, to this effect: That whereas his Majesty had receiv'd good testimony of the Loyalty, Duty and Affection of Captain *John Read* (afterwards a great Actor in the *Irish* Rebellion) he commands, that no Indictment, Presentment, Information or Suit, in his Majesty's name, or in the name of any other, shall be commenc'd or prosecuted against him for or concerning Recusancy; and if any such happen, the same to be discharg'd. The like Letter his Majesty sent for Sir *Francis Englefield*, tho not with such expressions of Loyalty, Duty and Affection as in Captain *Read's*; nor did Sir *Francis Englefield* ever express his Loyalty in such sort as Captain *Read* did. There was another Form, directed to Persons in whom the King repos'd a more intire confidence, which was to this effect: That his Majesty had been often and earnestly mov'd by his dear Mother the Queen Mother of *France*, that Sir *Henry Bedingsfield*, his Wife and Family, who are

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Popish Reculants, might receive his favour, when they should stand in need thereof; yet he must so perform it, that it may not be of ill example to others, nor be scandalous to his Government, whereof he must be tender. He commands them to take special care to preserve the said Sir Henry Bedingfield and his Wife from the danger of the Laws against Popish Reculants, and that he shall not be impeach'd for any of his Family's being Popish Reculants. Besides which Letters of Grace, there was a way found out to render the Recognizances entred into by Popish Reculants for their appearance of no effect, and Orders in the ensuing form were usually granted by the Court of King's Bench, viz. Upon special directions by his Majesty, signify'd by a Letter from Mr. Secretary to Sir Thomas Richardson, Lord Chief Justice of the King's Bench, it is order'd by this Court, that the Recognizance taken at Justice-Hall in the Old Baily, wherein Alexander Baker was bound to his Majesty with two Sureties for his appearance at the Sessions of Goal-delivery then next following, at which Sessions he made default, shall not be estreated, but all further Proceedings stay'd.

10 Car.

17 Apr.
10 Car. p.
157 of the
Sessions
Book.

Star-chamber Cases in the year 1634.

Pascha 10 Car. The Defendant Hawks with his two Partners, made 200 l. worth of counterfeit Farthings, contrary to the Common Law, and in prejudice of his Majesty's Patentees, who are bound to a continual Rechange. He was committed, fin'd 200 l. and set on the Pillory at Westminster and Cheapside: His two Partners (who were Witnesses against him) to be proceeded against upon their own Confessions, and no Farthing Tokens to be inforc'd upon any man in payments, nor any man to pay above two pence in Farthings at one time, nor to buy any at an under rate.

Crane Mil.
versus
Hawks.
Counter-
feiting Far-
thing To-
kens.

Trin. 10 Car. The Plaintiff refusing to execute a Conveyance to the Defendant of the Inheritance of certain Lands, the Defendant caus'd him to be arrested for the felonious stealing of a Shirt (which in truth was the Plaintiff's own Shirt) and upon an Attach-ment of Privilege at the Defendant's Suit; whereas

Reeve
vers. Gray.
Arresting
one on a
Writ a-
gainst ano-
ther of the
same name.

Ann. 1634. The Attachment was su'd out against an Esquire of the same name. The Defendant was committed, fin'd 50 l. and 50 l. damage to the Plaintiff, and disabled to practise as an Attorney.

Att. Regis
verl. Over-
man & al.
Using Fish-
Oil.

The Defendants us'd Fish-Oil and Spike-Oil in making their Soap, altho the King by his Proclamation had prohibited the use of any other than Olive and Rape-Oil; and the Defendants *Griffin*, *Cope* and *Revel*, by the instigation of the Defendant *Whitwel*, in

Not suffer-
ing their
Soap to be
try'd.

further contempt thereof, and of the Letters Patents granted to the new Corporation of Soapers, refus'd to suffer the Assay-master to try or mark their Soap. And the Defendants *Overman*, *Baker* and *Troughton* with others, altho no Corporation or Fellowship lawfully

Unlawful
Meetings.

authoriz'd, several times assembled to confer about the sale of their Soap and the buying of Fish-Oil, and agreed not to sell their second best Soap under 54 s. the Barrel; and bought 600 Tun of Fish-Oil to use in making Soap. The Defendants were all committed; *Griffin* fin'd 1500 l. *Overman* the elder and *Whitwel* 1000 l. apiece; four more 1000 Marks apiece; nine more 500 l. apiece, and all disabled to use the Trade of Soapboiling.

Att. Regis
verl. Myn
Arm. & al.

Mich. 10 Car. The Defendant *Myn*, as Clerk of the Hanaper, receiv'd 4 s. 6 d. apiece for several Sheriffs Patents, whereas but half at most is due; and (contrary to the Stat. 23 H. 8. and to a Decree in Chancery) 2 s. 6 d. upon several Commissions of Sewers, whereas 2 d. only is due upon each; and nine pounds yearly of the Chafer of Wax for the Great Seal, after the rate of 6 d. per pound, for paying to him out of the Hanaper 360 l. per annum, allowed by his Majesty for Wax; and 75 l. of Mr. *Pulford* for Poundage for paying him 3000 l. due from his Majesty; and 7 l. 10 s. Poundage for paying 300 l. to Mr. *Amstrother* his Majesty's Ambassador; and 10 l. more of him for paying it sooner than he us'd to accompt in the Exchequer: He kept Mr. *Gibbs's* Patent for 2000 l. given him by his Majesty, seven years, because he would not pay Poundage; and exacted more than his due upon several Patents of *Conge d'Eslier*, Denization, creation of a Baron and Viscount, for several Prebends, and Deanries, and Protections Royal: And the Defendant *Dawe* his Deputy exacted more than was due for several Eschea-

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tors and Eleemosinary Patents. The Defendants were both committed; *Myn* fin'd 3000 l. and suspended the execution of his Office during the King's Pleasure; *Dawe* fin'd 300 l.

The Defendant in the Dining-hall of his Majesty's Art Regis Palace of *Whitehall*, (whither the King and Queen per Rel. Sir were then coming to dancing) shak'd his head and bent G Theo- his brows at the Relator (being one of the Gentlemen bald, vers. Pensioners then attending) laid hands on his cloke, Morley. shak'd him, caught him by the Throat, call'd him base Reviling, Rascal, base dunghill Rogue, swore he would be &c. one of reveng'd on him, and cut his throat, threaten'd to his Majes- kick him, and challeng'd him to go out and fight; and ty's Ser- being advis'd by Mr. Treasurer and Mr. Comptroler vants in, to consider where he was, he answer'd them very in White- temperately, and call'd the Relator base Fellow. hall.

And after the dancing was over, and the King gone, he challeng'd the Relator, and in the Court-yard took him by the throat, and gave him divers blows. The Defendant was committed to the Tower during the King's pleasure, fin'd 10000 l. to acknowledge his Offence, and submit himself to his Majesty, Mr. Treas- surer and Mr. Comptroler; to pay the Relator 1000 l. Damages, and make him such Recognition as the Earl Marshal should direct.

The Defendant *Allinson* reported at *Ipswich*, That Att. Regis his Majesty in his journey to *Scotland* being pleas'd ver. Robins with the Archbishop of *York*'s entertainment, and & al. bidding him ask something, the Archbishop kneel'd Publishing down, and requested a Toleration for the Papists in scandalous some Churches, and his Majesty being discontented News of thereat, confin'd him to his house; and the Defendant the ABp of *Robins* reported this for news at *Yarmouth*. They were York. both committed, fin'd 1000 l. a-piece; *Allinson* to be bound to his good behaviour during life, and set in the Pillory at *Westminster* (and there to be whipt) *York*, *Ipswich* and *Yarmouth*, with a Paper on his head, and to acknowledge his Offence at all four places; *Robins* to acknowledge his Offence at *Yarmouth*, and to pay the Archbishop 1000 Marks damages.

The Defendants *Thomas Turner* and *Eldred* being Vezey customary Tenants to the Plaintiff, stir'd up divers vex- Arm. vers. atious Suits against him, and *Eldred* being an Attorney Turner & prosecuted seven Suits against him in other mens al.

Ann. 1624.
Copyholders
stirring up
Suits a-
gainst the
Lord.

names without their Warrant, and *Turner* did bear the charge of seven of them upon Tryal of an Action against the Plaintiff, they both tamper'd with the Jury, and they and the other Defendants practis'd to defeat the Plaintiff of a Ward, keeping him secret in their houses, shifting him from place to place, causing him to change his name, and after the Plaintiff had gotten him, perswading him to leave him. All the Defendants were committed; *Eldred* (and *Thomas Turner* fin'd 500 l. a piece, and to pay the Plaintiff 100 l. a piece damages; *Harrison* and *William Turner* fin'd 50 l. a piece, and to pay the Plaintiff 50 l. a piece damages; *Elizabeth Wace* the Ward's Mother fin'd 100 l. all to acknowledg their Offences at the Plaintiff's Court Baron and at the Assizes in *Essex*, the Judges sitting; *Eldred* held not fit to practise as an Attorney, and refer'd to the Lord Chief Justice of the Kings Bench.

Sheldon
Vid. verf.
Sheldon
Gen. & al.

Practice to
find an Of-
fice to in-
title the
King to a
Wardship.

The Plaintiff's Husband being seiz'd of Lands held in Socage, and leaving a Son under age; and the Plaintiff being possess'd of the Estate, part in right of her Dower, and part as Guardian, the Defendants *William* and *Edward Sheldon*, pretending the Lands were held of his Majesty by Knights Service *in capite*, obtain'd a Writ of *Mandamus* to the Escheator to find an Office; which Writ the Defendant *Arkins* the Escheator call'd for and brought down, and without notice to the Plaintiff or Proclamation in the County Court, executed it at a place far distant from the Premises; and upon the said *William Sheldon*'s single evidence, that about a quarter of an Acre of the Premises was held of his Majesty *in capite* by Knights Service, an Office (brought thither ready drawn by the said *Edward Sheldon*) was found, intituling the King to the Wardship; and the Custody of the Plaintiff's Son (on a false pretence the Plaintiff was a Recusant) was committed to the said *William Sheldon* and his Wife, and the Plaintiff turn'd out of Possession of the whole. The Defendants were committed; *William Sheldon* fin'd 200 l. *Edward Sheldon* 300 l. (and they two to pay the Plaintiff 300 l. damages) and *Arkins* fin'd 100 l.

Peyton
Cler. verf.
Penny &
al.

The Defendant *Henry Penny*, in the presence of divers, sung a libellous Song, in disgrace of the Plaintiff, and

and finding the said Libel folded up, open'd and read it; and afterwards meeting the Defendant *Holly* read a Verse of it to him, and laying it upon a Table, *Holly* took it up and deliver'd it to a third, whereby it pass'd from man to man. They were all three committed, bound to their good behaviour, find 200 l. a-piece, and to the Plaintiff 200 Marks damages; *Penny* to stand on a stool in the Church porch on a Sunday, while the Parishioners are coming to Church, with a Paper on his head, and after Service and Sermon ended, he and the rest to ask the Plaintiff forgiveness.

The Plaintiff's and Defendant *Humphry Hyde*, Goddard Sons both standing for a Fellowship in *Exeter College Oxon*, whereof none was capable unless born within the Diocess of *Sarum*, most of the Fellows voted for the Plaintiff's Son, which the said *Humphry Hyde* perceiving before-hand, went to the Defendant *Elizabeth Dixon* (above 80 years of age) who had brought the Plaintiff's Wife to bed of some of her Children, but not of her Son that stood for the Fellowship, and persuaded her she brought her to bed of that Son also at *Eastwoodhay* within the Diocess of *Winton*: Then departing and writing a false Certificate to that purpose, sent it by the Defendant *Garret* to the Defendant *Farrant*, who got her to set her hand to it, and he and *Garret* were the subscribing Witnesses; and *Garret* delivering it to the Defendant *Thomas Hyde* (who was the Son that stood for the Fellowship) in the presence of his said Father, *Thomas* carried it to the Defendant *Francis Hyde*, who deliver'd it to the Rector of the College, as he was going to the Election, as a true Certificate, which *Humphry Hyde* and the Defendant *Alexander Hyde* justified; by means whereof the Plaintiff's Son was declar'd incapable, and ten of the Fellows who gave their Vote for him expell'd the College. The Defendants were committed; *Humphry Hyde* find 1000 l. *Garret* 500 l. *Francis Hyde*, *Alexander Hyde*, and *Simon Farrant* 100 l. a-piece, and to pay 400 l. to the Plaintiff, 300 l. whereof for his damages; 50 l. to the College for their charges in entertaining the Visitor, and 50 l. to the ten expell'd Fellows.

The Defendant before divers said, the Plaintiff is a Kingston base Lord, a T— in his teeth, he is but a Cur, and of

10 Car.
Publishing
a Libel.

Arm. ver.
Hyde Arm.
& al.

Practice to
procure a
false Certi-
ficate, &c.

Com. ver.
no Pettinger.

Ann. 1634.
scanda-
lous Words.

Att. Regis
per Rel. J.
Philpot
Arm. verf.
Anthon.
Roper Mil.

Depopula-
tion by pul-
ling down
Farm-hou-
ses, &c.

no account. He was committed, fin'd 200*l.* to pay 2000*l.* damage to the Earl, to be publicly whip'd at Nottingham Assizes, and before Enlargement to find Sureties for his good Behaviour.

The Defendant was seiz'd in Fee of five antient Messuages in *Farmingham* and elsewhere in the County of *Kent*, which belong'd to five several Farms, where of 600 Acres at least were us'd as arable, and kept five or six Plows, and many poor men and women, and about 20 able Servants fit for War, and several Carts ready to do his Majesty Service, in carrying Timber for repair of his Navy and otherwise; the Farmers whereof sold and vended to *London* and elsewhere yearly about 40 or 50 Quarters of Wheat besides other Grain out of each Farm one with another. But the Defendant hath converted all the arable Lands to pasture, pull'd down three of the said Farm Houses, and suffer'd the other two to run to ruin and lie uninhabited: And one of the said Farms, which in former times was a Succour to Travellers, is since the Depopulation a harbour for Thieves, where several Robberies are committed, and the Mony recover'd of the Hundred; which with the want of the Plows, and not one Cart kept upon the said three Farms, hath been a great burden to the Country. And the Defendant hath likewise, to the great Prejudice of the Town of *Farmingham*, pull'd down and suffer'd to lie uninhabited the Water Corn-mill there. The Court declaring this to be a Depopulation punishable by the Common Law, and the Defendant a very great Offender, he was committed, fin'd 4000*l.* and at the next Assizes for *Kent*, the Court sitting, to acknowledg his Offences, and the Decree to be read there; to pay to the Relator (besides his cost of Suit) the Minister of *Farmingham* and the Poor there, 100*l.* each; to repair and build all the said Farm Houses, with the Outhouses and Corn-mill, for habitation and use as formerly, and let and demise the said Farms at reasonable Rents; and the Lands to be plow'd up and us'd for Tillage.

Ann. 1635.

About the beginning of this Year an Information was exhibited in the Star Chamber by Sir *John Banks* the King's Attorney General against 7 Lords, about 60 Baronets and Knights, and 100 Esquires, who had Offi-

ces

ces and Places in several Counties, and divers Ladies of Quality; reciting, That *Q. Elizabeth* and *K. James* had by several Proclamations commanded Persons of Livelihood and Means to reside in their Countries, and not in or about *London*; and his present Majesty by his Proclamation dated 20 June Anno 8. declar'd, That he had observ'd a greater number of the Nobility, Gentry, and abler sort of People with their Families to resort of late to *London, Westminster* and the Places adjoining, and to reside there, than in former times, contrary to the antient usage of the *English Nation*; whereas by their residence in their Countrys where their Means ariseth, they serv'd his Majesty in several Places according to their ranks, whereby and by their Housekeeping there the Realm was defended, and the meaner sort of People guided and reliev'd; but by their Residence in *London, &c.* they are become unserviceable, and draw their Money from the Country, and spend it in the City in excessive Apparel, provided from foreign Parts, to the enriching of other Nations; and consuming the Treasure of this in vain Delights and Expences, to the wasting of their Estates, and the Poor not reliev'd or set on work: That great numbers of loose and idle People that follow them live about the said Cities, where great Disorders happen, the Cities are at excessive charge to relieve them, when they fall to beggery or grow infirm, become subject to Contagion, the prices of Victuals are increas'd, and the Countries undefended: That his Majesty observing that his Progenitors had us'd to command the People, as well Clergy as Laity (when necessary) to reside at their dwellings, and not to change their habitations under divers pains, did by his said Proclamation strictly command the Nobility, Gentry and Clergy-men that had Benefices with Cure, or Prébends in Cathedral or Collegiate Churches, and all others who had Mansion Houses in other parts, and were not of his Council, nor bound to daily Attendance on his Majesty, his Queen or Children, within 40 days to depart from *London* and *Westminster, &c.* and resort to their several Countries; and that as well they, as the Persons already there, should continue there with their Families: And his Majesty thereby declar'd his Resolution to withstand such a growing Evil by a constant

Ann. 1635.

stant Severity towards the Offenders; notwithstanding which the Defendants, not being of his Majesty's Council, nor his or his Queen's or Childrens Servants, and having Lands in several Counties of good value, and being able to provide for themselves Habitations there, and to keep House and relieve the Poor, have agreed and consulted together how to oppose and withstand the said Proclamation, and have promis'd to aid and countenance each other therein, and to stay and reside in *London* and *Westminster*, and the Places adjacent, with their Families; that they had made shew of leaving the said Cities and Places, and have resorted to other Cities and Corporate Towns, and have upon their own occasions retired to their Houses in the Country; but after some short stay, or when their business was dispatch'd, did in contempt of his Majesty and his said Proclamation, return again to *London* and *Westminster*, and the Suburbs thereof, where they with their Families still remain.

Letter
from some
Scottish Bps
to the ABp
of Canter-
bury.

The Archbishop of *St. Andrews* and *Glasgow*, and the Bishops of *Murrey*, *Dunblane* and *Brechin*, writ a Letter to the Archbishop of *Canterbury*, dated *April 2. 1635.* to this effect; That they had put their Brother the Bishop of *Ross* to the pains of a long Journey to *London* about the Liturgy and Canons of the Church, wherein they intreat the continuance of his Grace's favour; That they all wish'd a full Conformity in the Churches, but this must be the work of time; That by his Majesty's favour and his Grace's help, they had made a further Progress than was expected, and hop'd to go further if his Grace continu'd in Health and Life, for which they pray'd continually.

Ld Keeper's
Speech to
the Judges.

The Lord-Keeper *Coventry*, *June 17. 1635.* in the Star-chamber, gave his Charge to the Judges of Assize, as he receiv'd it from his Majesty, to this effect, viz. That the Term being ended, they were to divide themselves for their several Circuits. In the Term, the People seek after Justice; in the Circuit, Justice seeketh after them, and followeth them to their own doors: That it is his Majesty's pleasure, they do equal right between Party and Party, Poor and Rich, so as

the People have no cause to complain to him, either for denial or delay. As for capital Offenders, if the Officers under them did their parts, it would be hard for them to tread awry; therefore they had need to heed them narrowly, lest they prevent Justice: Look to the corruptions of Sheriffs and their Deputies, the partiality of Jurors, and the siding with men of power in their Country. The Tryal of particular Causes is not to be left undone, but those things which concern the Publick Good, being the weightier matters of the Law, they are to take into their prime and chief care; and among those the presenting and convicting Recusants, which as it concerneth Religion, so it relates to his Majesty's Profit. And (as a third motive) the King hath many years since assign'd those Forfeitures to the publick Defence. Next they are to make strict inquiry after Depopulations and Inclosures, a Crime that barreth God of his Honour, and the King of his Subjects; Churches and Houses go down together. Their giving this in charge to the Grand Inquests, hath hitherto wrought little effect; for Depopulations being commonly done by the greatest Persons, the Juries are overaw'd by them: yet do not cease, but inquire on still; for his Majesty is resolv'd to take care to prevent this over-spreading Evil in those that bring to their Posterity that Wo, which is pronounc'd to such as lay House to House, and Field to Field, to dwell alone in the midst of the Earth. The next is the reforming of Ale-houses, one of the greatest Pests of the Kingdom: Let none set up or continue without Licence: Let the licens'd Ale-houses be few, and in Market-Towns and great Places, or Roads where Travellers come; in private Corners they are the dens of Thieves: Let those that be licens'd be held strictly to the Law, for it hath been truly observ'd, that the Taverns, Inns and Ale-houses in *England*, by the falshood of their measure and unjust prices, have drawn more from their Guests than is exacted in *Holland*, by the Excise of Ale and Beer; strange that men should suffer themselves to be thus deceiv'd by such base and lewd People: Let not Ale-house-keeping be the livelihood of a great Family, one or two is enough to serve People; but where six, eight, ten or twelve must be maintain'd

Ann. 1635.

maintain'd by it, great disorders must ensue. And because Ale-houles swarm by the default of the Justices of Peace, who set up too many, let them certify their default and names, and they should be turn'd out of Commission: He said he once discharg'd two Justices of Peace for setting up one Ale-house. Next he commended to 'em the punishment of Vagabonds, and to rid the Ale-houses of them; the Constables, Headboroughs, Tithing-men, and inferiour Officers and Watchmen may do this, with a warrant from the Justices of the Peace, who may punish them for their neglect: If good Officers were chosen out of the better sort of Yeomanry, and the Watches kept by able men, these loose Wanderers would quickly be gone. He wish'd them to make known in the Country, that the Lords of Leets, and those who have the election of Constables and Officers, are by Law answerable for their choice; where an insufficient Coroner hath been chosen by a County, the whole County have been answerable to the King for the Coroner's fault: And if the Lords of Leets, &c. were sometimes awaken'd, by seizing their Leets, Fines, or *Quo Warranto*, the Country would be better serv'd. The Houses of Correction need also to be look'd to, and it were convenient they were plac'd next the Goal, that the Prisoners of the Goal might eat the labour of their own hands. The binding of Apprentices is fit to be press'd throughout the Circuits, and the Parents who are unwilling to part with their Children, the Parishioners who are unwilling to give them Clothes, and the Masters who refuse them, ought to be all over-ru'd; and the Justices of Peace are to be call'd upon, to see his Majesty's printed Orders put in execution. He said, *Christendam* was full of Wars and rumours of Wars, tho we enjoy a happy Peace and Plenty, and the way for us not to fight, is to arm. His Majesty hath therefore commanded the Land Forces to be in a readiness, and with the assistance of the Maritime Places, hath set out a Royal Fleet: The causes, occasions and times of War, with the ordering thereof, are proper to the King, and yet by his Writs he hath said enough to satisfy all well-minded men. The Dominion of the Sea is an antient Right of the Crown, and good Subjects will not endure to see it

D. M. H. M.

lost

lost or diminish'd: Our wooden Walls are the strength and safety of our Kingdom, and bring our Riches and Wealth; for the prices of our Wool, Lead, &c. would fall to nothing, if others should be Masters of the Sea. In the book of Assizes, 'tis said, 47 certain men went into the Country, and reported that no Wool should pass over the Sea that year, upon which it fell to so low prices, that the men who carried that Report were question'd and fin'd: And if a false Report wrought such an effect, what would be wrought in all our Commodities upon a real loss of the Dominion of the Sea, when our Trade should beat the Command of others? His Majesty therefore is resolv'd to have a greater strength at Sea the next year, and to issue out new Writs for that purpose, not only to the Maritime Towns, but to all the Kingdom besides, all being equally concern'd: And his Majesty requir'd of them the Judges, that in their Charges at the Assizes and elsewhere upon occasion, they let the People know how careful and zealous his Majesty is to secure both Sea and Land by a powerful Fleet, how just that is which his Majesty requires of them, and with what alacrity they ought in duty to contribute unto it.

One benefit the Kingdom receiv'd by the expedition of our Fleet this Summer, was the repressing the insolency of the *Hollanders*, by conserving the Sovereignty of the narrow Seas, and our Propriety of the Fishery there, which were inroach'd upon by the *Dutch*, who had contracted a Confederacy with *France*, and infested *Dunkirk*; from whence the *English* Fleet remov'd them, which made the *Hollanders* tack about and caress the *English*, with the ceremony of an Embassy, under colour of congratulating the Queen's happy delivery of a second Princess, and to present her with a massy piece of Ambergreece, two fair and almost transparent China Basons, a rare Clock of excellent Art, and four admirable pieces of Painting, the Originals of *Tintinet* and *Titian*.

The King by Proclamation, July 21. did forbid any of his Subjects, other than Soldiers, Mariners, Merchants and their Factors and Apprentices, without the licence of him or of six Privy Counsellors to de-

part

Fishery
conserv'd.

The Dutch
remov'd
from *Dunkirk*.

Send an
Embassy to
England
with Pro-
sents.

Leaving
the Realm
without Li-
cence pro-
hibited.

Ann. 1632.

Proclamation
against
Swearing.

part out of this Kingdom, or any other of his Dominions, into the Country of any foreign Prince or State.

Another Proclamation issu'd, July 26. reciting the Act of 21 Jac. against profane Swearing and Cursing, and declaring that his Majesty had erected an Office for receiving the Forfeitures, and appointed *Robert Lesley* Esq; to receive them, which were to be paid to the Bishops of the Diocesses, to be distributed among the Poor of the several Parishes; and that all Persons employ'd herein, should be exempted from bearing any other Offices in their respective Parishes.

Another
for settling
the Post-
Office.

By another Proclamation, July 31. declaring, that his Majesty had order'd *Thomas Witherings* Esq; his Postmaster for foreign Parts, to settle a running Post between *England* and *Scotland*, and 2 d. to be taken for every single Letter under 80 miles, and if 140 miles 4 d. and if above 6 d. and the like rule for other places in *England*: His Majesty commanded that none should receive or deliver any Letters, save the Messengers appointed by *Witherings*, common Carriers, and Messengers sent on purpose with a Letter to a Friend.

Another a-
bout defec-
tive Titles.

By another Proclamation, Aug. 24. declaring, that his Majesty had renew'd his Commission of Grace, authorizing the Lords and others of his Privy Council, and some of the Judges and Council learned, to grant and confirm the Peoples defective Estates and Titles upon moderate Compositions; he appointed such as would imbrace his favour to repair to his Commissioners in *Fleetstreet* before *Hilary* Term next, or a course would be taken to reduce those Lands to the Crown.

Case of the
Church-
wardens of
Beckington in *Somerset-*
shire.

The Churchwardens of *Beckington* in *Somersetshire* were excommunicated by the Bishop of *Bath* and *Wells*, for refusing to remove and rail in the Communion-Table, and pull down the Seats that stood at the East-end of the Chancel: They appeal'd to the Arches, and got a Letter from Sir *John Lamb* Dean of the Arches to the Bishop, to absolve them for a certain time, which was done. But they not complying, the Bishop excommunicated them again: They again appeal'd to the Arches, with a Petition to the Archbishop, and a Certificate from the Parish, that their Communion-Table

Table has stood time out of mind in the midst of the Chancel, and that near 60 years ago the Pavement was rais'd a foot above the rest of the Chancel, and inclos'd with a wainscot border. Their Appeal being rejected, and they threaten'd with the High Commission, they petition'd the King, but without success. They stood excommunicated a whole year, and then were cast into the Common Goal where they lay a long time. At length upon their publick Submission and Penance in that Parish-Church and two others, the Bishop releas'd them.

For preventing Abuses by Common Informers, combining with Under-Clerks in prosecuting the King's Subjects for their private Gain, his Majesty by his Proclamation, *Septemb. 6.* recited his Letters Patents of *5 Car.* confirming the Office of Collector of Fines and Forfeitures on penal Laws, erected by King *James, 18 Jac.* and annexing thereunto the Collection of Fines and Forfeitures for Offences at the Common Law, and of Recognizances grounded thereupon, since the *31st* of Queen *Elizabeth*, except those due by sentence of the Star-chamber, or of the President and Council of the Marches of *Wales*, or of the *North*, or of any Court Leet, &c. whereof the Collection was granted by any Letters Patents before the *15th* of *Octob. 18 Jac.* and declared he had granted the said Office to *James Chambers* Doctor in Physick, and *Edward Brown Esq.* for their Lives, and commanded certain Directions to be observ'd, which were printed with the Proclamation.

11 Car.

Proclamation concerning Informers.

A Proclamation issu'd, *Novemb. 1.* against excessive Carriages, which by the opinion of the Judges had been accounted publick Nuisances; forbidding any to go or travel upon the Common Highway, with any Waggon, Cart, &c. whereon should be laid above 2000 weight; or to use above five Horses, or four Oxen and two Horses, or six Oxen without Horses.

Carriages.

Mr. Samuel Ward a Minister in *Ipswich*, preach'd against the common bowing at the name of *Jesus*, and against the King's Book of *Sports*, and said, that the Church of *England* was ready to ring changes in Religion, and the Gospel stood on tiptoe as ready to be gone; for this he was suspended in the High Commission,

Mr. Ward of Ipswich suspended and imprisoned.

Ann. 1635.

Starcham-
ber, Sir A.
Pell Plt.
Sir J. Bagg
& al. De-
fendants.

Bill.

on, and enjoin'd Recantation, which he refusing, was committed to Prison, where he lay a long time.

In *Michaelmas* Term the great Cause was heard in the Star-chamber, between Sir *Anthony Pell* Plaintiff, and Sir *James Bagg* and others Defendants: The Charge in the Bill was to this effect; That Sir *Anthony Pell* being Surveyor and Keeper of his late Majesty's Hawks, the King, 2 *Car.* gave directions for the payment of 7000 *l.* to him; 4 *Car.* he lent the King 3000 *l.* and had afterwards 4000 *l.* of his Debt paid him, and had Orders for the remaining 6000 *l.* but getting no Money, he petition'd the King, who said he commiserated his Case, and refer'd him to the Lord Treasurer *Weston*: That the Defendant Sir *James Bagg* often resorting to the Lord Treasurer's House, insinuated himself into the Plaintiff's Acquaintance, and telling him what a Negotiator he was of business which pass'd the Lord Treasurer's hand, that there was no hopes of getting his Money unless he gave the Lord Treasurer some reward, and that he had laid many a thousand pound upon my Lord's Table and under his Beds-head for business done; he offer'd him, that if he would promise him the said Sir *James Bagg* 500 *l.* to supply the Lord Treasurer's present occasions, he would procure him Assignments for his 6000 *l.* and damage for forbearance, and all other Monys due to him from his Majesty for Wages, which in all amounted to above 12000 *l.* Whereupon the Plaintiff in *Decemb.* 8 *Car.* procur'd 500 *l.* which he paid Sir *James* for the Lord Treasurer's use (as he pretended) and took a Bond of Sir *James* and one *Harris* to repay it at six months; and yet a year pass'd, and nothing done. Then in *Novemb.* 9 *Car.* Sir *James* told the Plaintiff, that if he would give 2000 *l.* more to the Lord Treasurer, he would procure him before *St. Thomas's* day next to make Assignments for all the Plaintiff's Debts, Wages and Damages: Whereupon Sir *Anthony* procur'd 1000 *l.* for which Sir *James Bagg* and Sir *Richard Titchburn* were bound. When *St. Thomas's* day came, Sir *James* affirm'd to the Plaintiff, that the Assignments were made, but the Lord Treasurer would have the other 1000 *l.* before they were deliver'd. The Plaintiff procures this 1000 *l.* also, and Sir *James* and

and Mr. Gibbons were bound for it; and upon the delivery of the Assignments (which was to be the 30th of January) the Bonds for this 2000 l. were to be deliver'd up to be cancel'd: And besides this 2000 l. which Sir James falsely pretended was for the Lord Treasurer's use, and that the Lord Treasurer had receiv'd it, he caus'd the Plaintiff to undertake to pay 760 l. to Owen Brett and Charles Escourt, as Sir James's reward for procuring the Assignments.

The Defendant Sir James Bagg in his Answer deny'd the whole Charge in the Bill; the hearing took up several days (the Queen being present at a Window that look'd into the Court, in favour, as was conceiv'd, of Sir James Bagg) When the Lords came to give Judgment, the Speeches were very prolix, and seem'd to be rather *pro Amico*, than *pro Quarente aut Defendente*: The Court was divided, nine being for Pell (whereof the Lord Keeper was one) and nine for Bagg. Now the Lord Keeper having always the casting Vote in that Court, where the Voices are equal, and Judgment being therefore to be enter'd for Sir Anthony Pell, the King by his Warrant to the Register of the Court, commanded him to forbear entering of the Decretal Sentence; how the matter was compos'd appears not.

The Lord Chief Justice Finch (who was for Pell) said, that altho every Cozenage or Deceit was not fit for that Court, yet that which is accompany'd with a publick Inconvenience, or reflects upon the King's Justice, that Court would take notice of. In the case of a fraudulent Conveyance, the Party hath his remedy at Law and in Equity, and yet of late their Lordships had made many Precedents, because it tendeth to the publick damage of the Commonwealth; and in this case, nothing can be more dangerous to the Commonwealth, than where there shall be Panders and Brokers about Judges for the Administration of Justice: For any Minister of Justice, or of the King's Revenues, to have a Servant or Familiar, who takes a reward in the name of their Master, but for the procuring of just Debts, he had rather see both punish'd, than one to escape. If that part which concerns the Lord Treasurer had been the sole Charge of the Bill,

Sir James
Baggs's
Answer.

Entry of
Sentence
slopt.

Ld Chief
Justice
Finch his
Censure.

Ann. 1635.

Sir *Anthony Pell* had not been a fit Person to complain of it; but where the scandal shall be accompany'd with any deceit of the Party (as here) there any private man is enabled to be a Complainant in this Court. Besides the Plaintiff and Defendants, there is another interested in this Cause, and that is the Honour of a great Lord, who bore an Office of great Trust, and here earnestly mov'd their Lordships to expedite this Cause, that so this Cloud might not hang over him: And my Lord of *Portland* is not to be blam'd for being eager in defending the Honour of his dead Father; he should leave him therefore to take his course against whom he will. But my Lord's Honour being become a Plaintiff in this Cause, 'tis fit it should be vindicated here by some exemplary sentence on the Plaintiff or Defendants, or some of them, for a scandalous Libel, let it light where it will. He said, he held it an error to think, that to every Clause in a Bill in this Court, that gives countenance to the proof of the principal matter, two Witnesses are necessary; and some aver, that where there is one Witness, Circumstances shall amount to a further Witness. For the Defendants Sir *Richard Titchburne*, Mr. *Gibbons* and Mr. *Lake*, he said he clear'd them, but he could not clear the other Defendant Sir *James Bagg*, against whom there is full proof by two Witnesses, tho of some Particulars in the Bill there is no proof at all; as that he should say he had laid many a thousand Pounds under my Lord Treasurer's Pillow. He said, if it were true that 500 *l.* of this Mony was borrow'd by the Plaintiff for Sir *James Bagg*'s own use, yet Sir *James* told him, that the helping him to this Mony would do the Plaintiff a courtesy, and be a means to help him to the Assignments; and if Sir *James* had done no more but drawn a man to lend him Mony for such a dispatch, he would have held it a Crime fit for Sentence—[here the Auditors hem'd, but the Lord Chief Justice call'd to them to leave that fashion] For another 500 *l.* Sir *James* writ a Letter to the Plaintiff, in these words, Sir *Anthony Pell*, I pray you send me 500 *l.* to my Lodging. It seems he had the Plaintiff in a string for the last 1000 *l.* when Sir *James* was that night at the King's Head, and saw the Mony did not

not come; he said, my Lord Treasurer could not sleep that night, that the Plaintiff's business would be dash'd, and fall more backward than ever, and the Plaintiff would be undone—[Here the Lord *Finch* found great fault with the Examiner, for this and other Passages; he had set it down that Sir *James* could not sleep, instead of the Lord Treasurer; but *Marsh* the Witness was sent for into Court, who explain'd himself that he meant the Lord Treasurer]—When the Mony came, and Sir *James* had put it up, he said he must pay it away presently, for if it had not come the Plaintiff's business had been lost; so if he had not Mony when he would, the business would be left undone. As for the first 500 l. for which *Harris* was bound, what was between *Bagg* and *Harris* appears not, and possibly *Pell* help'd *Bagg* to it for *Harris*'s good and his own; but still this was to be a means to help the Plaintiff to his Assignments. As for the 760 l. ow'd to *Brett*, it appears that *Pell* was not engag'd for it; he said it was an unnatural thing in *Bagg*, that when Sir *Anthony Pell* was to raise 3000 l. for the King before he could have his Assignments, he would suffer *Pell* to be undone for want of it, when he had 12000 l. of it in his hands. He said, it was objected, there is no proof of a Reward: But he should hold *Bagg* a Fool, if *Pell* should prove a Contract; and wonder'd Sir *James Bagg* should neglect the King's Service, and attend here seven Months to dispatch this business for the Plaintiff, and all this for nothing. It hath been said, suppose Sir *James* had the Mony, is it a Crime, will not a Court of Justice allow him for his pains? He answer'd, he would be none of those Judges that would do so in such a case as this, and believ'd the Court of Chancery would afford him but small Comfort. He spake several other things which arose out of the Proofs; the points of scandal are these, That he must give a reward to the Lord Treasurer, for he (*Bagg*) had experience of it; that he must to *Wallingford House*, the business would be undone, and go more backward than ever (cunningly, and to make the Plaintiff believe the Lord Treasurer was to have it) That Sir *James* took that execration upon him (meaning *God damn me*) that he was never a penny better for this Mony, my Lord

Ann. 1635.

Treasurer had it all; and that my Lord Treasurer could not sleep till he had the Mony. And it is confirm'd by *Turner*, that *Bagg* and *Lake* told *Jones* (as *Jones* said, who was then in a Consumption) that my Lord Treasurer had the Mony. He said, any Cause of the King's might miscarry, if Witnesses without any exception ever taken against them may just at the hearing be thus blown upon (meaning by Sir *James's* Counsel) as to say they were Serving-men or Footmen; for who but Servants can best tell of any Passages between their Master and others? He adjudg'd Sir *James Bagg* to pay 5000*l.* to the King, to be imprison'd in the Tower during the King's pleasure, to repay the 2000*l.* for which the Plaintiff is engag'd, and to the Plaintiff 1500*l.* damages. And for the two Offices of great Trust which he holds about the King, he humbly offers his Advice to his Majesty, that such a man as Sir *James Bagg* is not fit to be intrusted in Places of that importance.

Arch-Bp of
Canterbu-
ry's Cen-
sure.

The Archbishop of *Canterbury* said, this Charge could not be sever'd from the Scandal, and so my Lord Treasurer must of necessity be nam'd; and then what fault in Sir *Anthony Pell*? He said, he was of opinion, that my Lord Treasurer's Honour standeth right in this Court, there being nothing of aspersion in the Proofs fasten'd upon him; and if it were a fault in Sir *Anthony Pell* to spread these Reports, the fault must light upon Sir *James Bagg*, who gave the occasion of them. He found great fault with the Examiner, whom he call'd base unworthy Fellow, and a Cut-throat of mens Causes. He said, he could give Sir *Richard Titchburne*, tho innocent, no reparation; what if five or six Defendants, and proof only against one or two, shall the Plaintiff be punish'd for want of proof? He thought it no Crime that *Pell* was delay'd in the payment of his Mony, for the King cannot pay all upon demand; and when from the Original Debt of 7000*l.* it suddenly grew to above 13000*l.* the Lord Treasurer had need look about him. That which troubled him was, that if a great man hath a Kinsman, Secretary or other Person about him that is corrupt, or do any Acts which make him seem so, it is as much as if he were really guilty; for the People will

will run on with an opinion of Bribery and Corruption: This will bring great men into despit, who perhaps never heard of it. 'Tis objected, that in the Bill there is a meddling with the King's Revenue, what then? For if no Abuse concerning the Revenue must be question'd, the King shall never know how he is cheated. He said, he clear'd the Defendants Sir Richard Trenchburne, Gibbons, and Lake my Lord's Secretary, tho he could not think so well of Lake as he had done for the Letter he writ to Bond, that he had Assignments of 6000*l.* in keeping for the Plaintiff; how durst he write so without his Lord's Privy? For Sir James Bagg, the Question is, what fraudulent Practices he was guilty of, not what Sir Anthony Pell is damnify'd. Sir James us'd the Lord Treasurer's name to get the Monys to be lent him, on pretence of getting the Assignments. Said, he had experience in business of this nature, and he was to have but 700*l.* for his pains; he must go Wallingford House, tho it was wittily observ'd by Sir James's Counsel, that this may be taken in *sensu diviso*; that he must pay the Monys, and then presently to Wallingford House. But why was not this Mony (if Bagg had not pretended it was for the Lord Treasurer) paid in again to Pell? Oh, saith Bagg's Counsel, he would not pay it in till the Bill came in, that the World might see he was not afraid of the Bill. This is mere Gloss; for all the World may see that if it had not been for the Bill, Sir Anthony Pell had never had his Mony; this is like a Thief, who robs one, and seeing others coming up to him, crys, here's your Mony, I did but borrow it. He agreed with the Lord Finch, that Bagg was a most unnatural Man, that had drawn 2500*l.* from the Plaintiff, for himself and his Friends, and yet did not help him when he was in a strait for 3000*l.* He said, he would have sentenc'd him for this unnatural partialone. He found fault with taking Exceptions against Witnesses at the hearing, and allow'd the competency of the Plaintiff's Witnesses. Sir James Bagg in his Answer saith, he never deserv'd so much courtesy from Sir Anthony Pell, as to lend him so much Mony; and yet see Bagg's Letters, where he writes himself his most real Friend, and saith his business will be better

Ann. 1625.

Ld. Cottington,

And E. of Dorset were for fining Sir A. Pell pro falso clamore.

Pr. Elector Palatine comes into England.

ABp of Canterbury's Letter to the ABp of St. Andrews.

done, if he leave it to his Friend *James Bagg*: He was a most base Fellow, to say, your most real Friend, and yet to serve Sir *Anthony* as he did. He fin'd him 5000*l.* and imprisonment at the King's pleasure, and 500*l.* damages to Sir *Anthony Pell*, and pray'd his Majesty not to imploy him in any place of Trust.

The Lord *Cottington* who first began, was of opinion Sir *James Bagg* ought to be acquitted, and Sir *Anthony Pell* censur'd *pro falso clamore*, and for putting into his Bill those scandalous Passages concerning the Lord Treasurer.

Of the same opinion was the Earl of *Dorset*, who declar'd, he thought it no Crime for a Courtier, that lives at great expence in his attendance, to receive a Reward to get a business done by a great Man in power.

About this time the Prince Elector *Palatine* and his Brother Prince *Rupert* came into *England*, after the Elector had been tir'd out with expectation, what the mediation of his Majesty and other Princes would produce; but the Duke of *Bavaria* declar'd, that what he had gain'd by his Sword and Treasure, he would not part with by Treaty.

The Archbishop of *Canterbury*, by Letter to the Archbishop of *St. Andrews*, dated *Novemb. 10.* acquainted him, that his Majesty for reason of State, had resolv'd not as yet to meddle with the Abbacy of *Exeter*, or any other of that nature, until he had consider'd the Decrees and Acts of Parliament concerning them; assuring him his Majesty would be very careful of the Credit and Maintenance of the Church, whereof if himself, or any other Bishop or Clergyman shall make doubt, he is commanded to tell him that they will wrong his Majesty, and hurt themselves and the Church. The Wants of the Bishopricks his Majesty will take into his particular care, and hath settled *Arbroth* upon the Bishoprick of *Brechin*. In all the business of the Church for the future, his Majesty strictly commands, that either himself, or the Lord *Ross*, or both, do privately acquaint the Earl of *Traquair* therewith, before it be propos'd in publick at the Council Table, Exchequer or elsewhere; and the Earl hath promis'd to hold the same

cor-

correspondence with them, and to do all the good Offices he can for the Church: And if their Lordships and that Earl differ'd in Judgment about any thing, let it rest, and write up to his Majesty, or to him (*Canterbury*) for direction; which when receiv'd, they were all to obey, that so no further unhappy differences may arise in the place of that of *Lindores*, to disturb the King or Church: Which mutual correspondence between *Traquair* and them, was to be kept secret, and made known to no Person either Clergy or Laity; and the King bids him tell them, he shall take it very ill of him that observes not these Directions.

In another Letter, dated *Decemb. 1.* the Archbishop of *Canterbury* tells the Archbishop of *St. Andrews* how much the King was displeas'd, that whilst he is setting that Church against all things defective in it, and all unwarrantable Customs unknown to or oppos'd by the Church of Christ, the Bishop of *Aberdeen* had allow'd a publick Fast throughout his Diocess to be kept upon the Lord's Day, contrary to the Rules of Christianity and antient Canons: His Majesty commands his Grace, that he and my Lord *Glasgow* take order with the Bishops, that no Fast be suffer'd on that day, or any publick Fast on any other day, without the King's special Command, to whose Power it belongs, and not to them. And that they make a Canon purposely against this unworthy Custom, and print it with the rest of the Canons, and he to write a short Letter to the Bishop of *Aberdeen*, letting him understand how he hath overshot himself.

Mr. *Chancey* Minister of *Ware* in *Hartfordshire*, for opposing the making of a Rail about the Communion-Table in that Parish-Church, was brought into the High Commission, and suspended from his Ministry, till he made in open Court a Recantation after a prescribed Form, acknowledging his Offence, and protesting he was persuaded, that Kneeling at the Sacrament was a lawful and commendable Gesture; and that the Rail set up in the Chancel, with a Bench thereunto annex'd for kneeling at the Communion, was a decent and convenient Ornament, and promising Conformity in all things. He was condemn'd in great Costs of

Another.

*Mr. Chan-
cey questi-
on'd in the
High Com-
mission.*

Ann. 1635.

Proclamation
gainst
Hackny
Coaches.Another
touching
Wines.Another a-
gainst Fe-
lons and
Outlaws on
the English
and Scots
Borders.Dr. Man-
waring
made Bp of
St. Davids.

Suit, and imprison'd : Afterwards he made his Recantation, and was dismiss'd with an Admonition from the Archbishop.

19 Jan. The King by Proclamation prohibited the use of Hackny Coaches, unless they were to travel three miles at least out of London or Westminster ; and no man to go in a Coach in the Streets of London or Westminster, unless the Owner of the Coach kept with in the said Cities or Suburbs thereof four able Horses or Geldings fit for his Majesty's Service, if occurr on be.

Note, That 1 Car. there were not above 20 Hackny Coaches in and about London, and those stood not in the Streets but in their Stables ; The Judges constantly rid on Horseback to Westminster in all Weathers, and the Lawyers pleaded in Ruffs.

1 Feb. The King with the advice of his Privy Council, according to the Statute 4 E. 3 declar'd by Proclamation the prices of Wines for one year following, viz. Canarys, Muscadels and Alicants at 17 l. the Pipe, and 12 s. the Quart ; Sacks and Malagoes at 15 l. the Butt, and 10 s. the Quart ; Gascoign and French Wines at 18 l. the Tun, and Rachel Wines at 15 l. the Tun, and 6 s. the Quart.

By another Proclamation, 25 Feb. reciting that several of the chief Landlords of the Lands adjoining to the Frontiers of England and Scotland, had undertaken to King James, that their Tenants should be answerable to the King's Laws, for any Felony or capital Crime they should be charg'd with, and if the Delinquent fly before he is apprehended, and be indicted and convicted, then the Landlord to whom the Forfeiture accrued, should make restitution to the Party griev'd of the Goods stolen from him ; the said Landlords being authoriz'd to search for and apprehend all Felons, Fugitives, Abettors and suspected Persons, lurking or being within his Bounds or Limits : His Majesty now approves of such Undertaking, and commands the chief Landlords in Cumberland and Northumberland to put the same in execution.

28 Feb. Archbishop Laud consecrated Dr. Roger Manwaring Bishop of St. Davids : This is the same Roger Manwaring, who for preaching up an absolute Despotick

Despotick Power in the King over the Lives and Estates of his Subjects, had Judgment in the House of Lords in the Parliament 3 Car. to be incapable of any Ecclesiastical Preferments.

6 March, William Juxon Bishop of London was made Lord High Treasurer of England: No Church-man had it since Henry the VIIth's time: And now (said Archbishop Laud in his Diary) if the Church will not hold up themselves, under God, he could do no more.

In May this year a Peace was concluded at Prague, the Protestants were restor'd to their Lands and Religion as in the year 1627, and the Church-lands in their possession confirm'd to them for 40 years: The Duke of Mecklenburgh was reinstated in the Dukedom. But the Swedes were displeas'd with this Peace, after the War had cost them the Blood of their Great King, and of so many thousand others. The Duke of Saxony offer'd them 100000 Rixdollars for a Reward; but they having so many good Towns and Provinces, and the whole Empire being unable to beat them out of Pomerania, they resolv'd to stand upon their Terms; and the Chancellor Oxenstern put all which the Swedes held about Philipsburgh into the hands of the French for a great sum of Money, and retir'd into Sweden, having lent before him his Train and 150 brave Horses, all which fell into his Enemies hands: And a Vessel laden with invaluable Riches, and the Spoils of the Churches, as Copes, Organs, Images, Chalice and other Church-plate, the twelve Apostles of Wirtemburgh, &c. was sunk in the Sea, within a League of the Coast of Sweden, and all lost. At length the French themselves were totally beaten out of Germany; Cardinal Richlieu in a fury would needs besiege Cologne, but the Hollanders refusing to second him, he was fain to desist: Then the Cardinal fell upon the House of Lorraine, which occasion'd that Duke's Manifesto, That not able to contest with his powerful Enemy, he had transfer'd all his Rights upon his Brother Francis; the Duke retiring to be General of the Catholick Army in Germany. It was design'd that Francis, who was a Cardinal, should resign his Cap, and procure a Dispensation from Rome to marry his Cousin German: But

11 Car.

Bp Juxon made Lord Treasurer.

Peace at Prague, &c.

Ann. 1635. But Richlieu seizes him and his new Bride at Paris, and sends them Prisoners to the *Bastile*, out of which they escap'd disguis'd, and got to *Vienna*.

A great
Flood and
Plague.

This year by a Flood near *Gluckstat* in *Holstein*, there were drown'd 6000 Persons, and above 50000 Cattel: And by the Plague, which beginning in the North, pass'd thro *Holland*, there died about 20000 Persons in the Town of *Leiden* only, besides *Amsterdam* and other Places.

Star-chamber Cases, Anno 1635.

Att. Regis
per Rel.
Jacobson
vers. Cam-
ry & al.

Trim. II Car. His Majesty having demis'd the Forest of *Braydon*, and Dutchy Woods and Marsh-Lands thereto adjoining, to Mr. *Jacobson* and others for 21000 *l.* for forty years, at the yearly rent of 2 *s.* 3 *d.* per Acre, to commence after it was inclos'd at his Majesty's Cost; and some of the Defendants disturbing their possession, on pretence of right of Common, it was decreed in the Exchequer, that the Tenants should enjoy the Premises discharg'd of Common. And upon new disturbances, and another Information in the Exchequer, it was decreed, that the Farmers might inclose, and the Pretenders to Common should enjoy such Proportions as were set out to them by his Majesty's Commission of Grace, whereby they had ample satisfaction for all their Pretences: yet the Defendants to destroy the Inclosures, demolish the Houses, &c. (which they effected) assembled sometimes 1000 together in disguis'd Habits, day and night, contemn'd the Sheriff's Proclamation, shot at the Under-Sheriff and the King's Messenger; and some sent the rest Money and Provision, and collected Money for them. The Defendants were all committed, and to be bound to their good Behaviour, three of them fin'd 500 *l.* a-piece, set in the Pillory with Papers at the Assizes in Womens Clothes (as disguis'd in the Riots) and there well whip'd, three fin'd 300 *l.* a-piece, and twenty eight 200 *l.* a-piece: All of them to pay the Relator 2000 *l.* damages, and *Parker* for threatening a Messenger, fin'd 500 *l.* and bound to his good Behaviour.

Riotous
destroying
Inclosures.

Mich.

Mich. 11 Car. *Goddard* the Elder being a Copyholder of Lands in *Eylden*, adjoining to his Majesty's Chase, call'd *Albourne Chase*, where the Keepers have always with their Leash-hounds, gone in and out without interruption, and rechas'd his Majesty's Deer; *Goddard* the younger, with his Father's Consent, did with the Defendant *Cox* and another in the night, in another man's Coppice, with Dogs, kill one of the Chase Deer, and another time kill'd another in *Goddard* the Elder's Ground; both which, or part of each, were eaten in *Goddard*'s House: and at another time a Rascal Deer, part whereof being boil'd, *Goddard*'s Wife told her Servants it was Mutton. The Defendants were committed, the two *Goddards* fin'd 500 l. a-piece, *Goddard*'s Wife 50 l. and *Cox* 300 l. the men to make their submission at the Assizes, and be there bound to their good behaviour. This not to prejudice the Privilege *King's College* in *Cambridg* have in their possessions there.

11 Car.
Bond Esq;
vers. God-
dard & al.
Killing his
Majesty's
Deer.

The Town of *Yarmouth* had set up a Lecturer, one *Mr. Brinsley* a Nonconformist, who officiated in a Warehouse, call'd the Chappel, a place formerly us'd by the *Dutch* for their Service, but never consecrated. *Mr. Brooks* the Minister of the Town, who was presented by the Dean and Chapter of *Norwich*, and had an Inhibition to serve upon *Brinsley*, serves him there-with in the Meeting-place; whereupon the Magistrates of the Town commit *Brooks*. This came to be heard before his Majesty in Council, who order'd, that *Mr. Brooks* and the Dean and Chapter should be satisfy'd their Charges in this Suit; that the four who subscrib'd the *Mittimus* should be imprison'd during the King's pleasure, and acknowledg their Offence; that *Mr. Brinsley* should be remov'd from the Town, and not officiate any where unless he conform, and the pretend-ed Chappel to be converted again into a Warehouse.

Ann. 1636.
Town of
Yarmouth
commit
their Mi-
nister.

The Coun-
cil's Order
thereupon.

March 26. The King in Council order'd *Mr. Selden*'s Book, call'd *Mare clausum* (which he writ by his Majesty's Command) to be kept, one of them in the Council Chest, another in the Court of Exchequer, and a third in the Admiralty Court, as strong evidence of his Dominion of the *British Seas*; and on the

*Mr. Sel-
den's Mare
clausum to
be inroll'd.*

Ann. 1636. 15th of April following, commanded by Proclamation, that no Person should import, publish, or set to sale any of the said Books printed beyond the Seas, either in *Latin* or *English*, except such as had or should be licens'd; there being in the foreign Impression added more than was printed at first, and the name of the City of *London* falsly put in.

Another about Mariners. 5 Apr. Several Mariners being press'd for his Majesty's Service, and having withdrawn themselves, and been entertain'd by Merchants and others; they were by Proclamation commanded to return into his Majesty's Service; and Merchants and Masters of Ships forbidden to receive or continue them.

Another against counterfeit Jewels. By another Proclamation, 18 Apr. taking notice of the great quantity of Money exported into Foreign Parts for counterfeit Jewels, &c. all Persons were forbidden to wear or use any counterfeit Jewels, Pearls, Pendants, Chains or false Stones, on pain of forfeiture and further punishment.

Liturgy in Scotland. 19 Apr. The King declar'd, that he gave the Archbishop of *Canterbury* command to make the Alterations express'd in the Liturgy design'd for *Scotland*; and where it differs from another Book, sign'd by him Septemb. 28. 1634. he would have this follow'd, unless the Bishops of *Scotland* see apparent reason to the contrary.

Proclamation about the Plague. 22 Apr. The Plague breaking forth, the King by his Proclamation commanded the same Orders, Directions and Preservatives against the Infection, should be observ'd and us'd, as were in the last Plague.

Another concerning Books printed beyond Sea. By another Proclamation, May 1. was forbidden the Importation into *England*, *Ireland* or *Wales*, or offering to sale of any Book printed beyond the Seas, in *Latin*, *Greek*, *Hebrew*, *Chaldee*, *Syrack* or *Arabick*, the first Edition whereof came out of any Press in the Universities or *London*.

Another concerning Fishery on our Coasts. By another Proclamation, May 10. reciting a Proclamation by King *James*, 7 Jac. to restrain Fishery without licence upon the Coasts and Seas of Great Britain, *Ireland*, and the Isles adjacent, by any not being his natural born Subjects: His Majesty by the advice of his Privy Council, renews the said Restraint of Fishing upon the aforesaid Coasts and Seas without licence,

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cence, he being resolv'd to keep such a competent strength of Shipping as may hinder such Encroachments, and protect his Friends and Allies who shall take out such Licences. In pursuance whereof, this year, *Algernon* Earl of *Northumberland* being Admiral, with a formidable Armado of 60 Sail, falling in with the *Dutch* *Busses*, who were fishing on the Coasts of the Northern Isles, part of the King's Dominions, commanded them to forbear, but they not complying, he shot at them; some were taken, others sunk, and the rest fled: Whereupon the *Dutch* prevail'd with the Admiral to let them go on that Summer, for which they gave the King 30000*l.* and promis'd to pay a yearly Tribute for his Licence for the future.

May 27. The Plague increasing in and about *London* and *Westminster*, the King by Proclamation the 27th of *May*, gave notice, that he had by Advice of his Privy Council adjourn'd *Trinity* Term from the second return to *Tres Trin*, which should be only for such Causes as were therein express'd.

Richard Chambers Merchant, having commenc'd a Suit in the Court of King's-Bench against *Sir Edward Bromfield*, who, when Lord-Mayor of *London*, had imprison'd him for refusing to pay Ship-mony, and *Sir Edward* making a special Justification, *Sir Robert Berkley* one of the Judges of that Court, *Trin. 1636.* declar'd, That there was a Rule of Law, and a Rule of Government; and that many things which might not be done by the first Rule, might be done by the other, and would not suffer *Chambers* his Counsel to argue against the Legality of Ship-mony.

June 6. All the Judges assembl'd at Serjeants-Inn about the Books written by *Mr. Burton* and *Dr. Bastwick*, where the King's Counsel argu'd, That there were divers Passages in them that amounted to Treason: And the Judges afterwards in their absence, upon debate resolv'd, 1. That no Indictment for Treason in those Books would be good, unless grounded upon the Statute of 25 *E. 3.* for compassing or imagining the King's Death, or for levying of War. 2. If any Man took Arms to alter the Government Ecclesiastical or Civil, and thereby to compass the King's Destruction, this was Treason. 3. But the Indictment must be fram'd

12 Car.

Dutch Busses interrupted, and forc'd to compound.

Proclamation for adjourning part of Trin. Term.

Judg Berkley's new Doctrine concerning Ship-mony.

Judges Opinions about Burton's and Bastwick's Books.

Ann. 1636.

fram'd upon that Statute. These Resolutions they deliver'd to the King and Council.

Archbishop
Laud's
much to be
desir'd
Times.

The new Statutes of the University of *Oxford* were publish'd in Convocation; the Preface whereunto disparag'd King *Edward's* Times and Government, declaring, That then the Discipline of the University was discompos'd by that King's Injunctions, and the Novelty of the Age, but reviv'd in Queen *Mary's* days, under the Government of Cardinal *Pool*, when by the much to be desir'd felicity of those Times an inbred Candor supply'd the defect of Statutes.

His right
to visit the
Universi-
ties deba-
ted in the
King's pre-
sence.

The Archbishop of *Canterbury* claiming a right *jure Metropolitico* of visiting the Universities of *Oxford* and *Cambridg*, and they insisting that it was in the King alone as their King and Founder; the Cause came to be heard *June 21.* before the King and Council: The Archbishop standing at the Right-hand of the King, said, he having by Letters claim'd to visit them as within his Province; they answer'd, that they should wrong themselves if they yielded thereunto without a Command from his Majesty; wherefore he desir'd his Majesty would hear the Cause. The Earl of *Holland*, Chancellor of the University of *Cambridg* standing at the left-hand of the King, said, he hoped that University should not lose their Privilege to be visited by his Majesty only, and those by Commission from him, and to be exempted from Bishop and Archbishop. The King's Attorney argu'd for the Archbishop: He said, the Archbishop's visiting the Universities as within his Province, intrench'd not on his Majesty, who notwithstanding may visit by Commission as supreme Ordinary. The Archbishop of common right may visit the Clergy and People in all Causes Ecclesiastical in all places. By the Statute of 21 *H. 8.* it appears he may visit Colleges: By another Statute he may reform and punish in all places exempt or not exempt: By Stat. 13 *Eliz.* he is to see the Doctrine of the Church maintain'd: In the times of *Edw. 3. Rich. 2. Edw. 4.* he visited the Universities in his Metropolitcal Right, not by any Bull from the Pope: There is as great necessity now, for there may be Chappels in *Cambridg* never consecrated: And in the Ecclesiastical Laws of *H. 8. and Ed. 6.* it appears there

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there should be no Exemption of Colleges. Sir John Lamb seconded Mr. Attorney; He said, the Archbishop's Visitation of the Universities being of common right, as parts of his Province, the Universities ought to prove their Exemption: That in Causes in the Universities they had for many hundred years appeal'd to the Archbishop, which he would shew by Records. The King commanding the Universities to shew their Exemption; Mr. Gardiner Recorder of London spake for Cambridge: He said, the Question was, Whether his Majesty had the sole power of visiting, or the Archbishop a concurrent Power? No (said the King) 'tis, Whether he hath not power to visit there as within his Province? The Recorder thus proceeded. In England, Archbishops, Bishops and Archdeacons visit; the Bishop once in three years, the Archbishop once in his time. Here the Archbishop interpos'd, that he might visit as oft as he would. The Recorder went on: In the University there are a Chancellor, Vice-Chancellor, Proctors, &c. they may proceed by Excommunication, imprison and banish, which is more than appertains to a Metropolitcal Visitation; once a Bishop of *Ely* excommunicated one of this University, but the Bishop was excommunicated and made to submit himself: and further than this there is no Precedent that the Bishop did ever meddle. § R. 2. In the Petition to the Parliament, this University is stil'd an University founded by his Majesty's Progenitors: This intitles the King to the Power of Visitation, and is an Exemption from ordinary Jurisdiction; for other Exemptions they have Bulls from the Pope, and Charters. In R. 2d's time most of the Charters were burnt in an Insurrection; but in H. 6th's time many of them confirm'd upon a Suit to the Pope, and a Commission, whereupon Witnesses were examin'd, and two antient Bulls were then discover'd exempting them from Metropolitcal Visitation, one in 624. the other in 699. The Archbishop reply'd, That these Exemptions were not to be found in any Priories or Nunneries at the first Foundation, but when they got any Mony they sent to Rome for an Exemption. The King upon this occasion said, that the Pope doth as much to bear down Bishops as any Puritan in England. In the close, the Archbishop complain'd there were

Ann. 1636. were three Chappels in *Cambridg* never consecrated (but Dr. *Chadderron* told him they were consecrated by Faith and a good Conscience) besides, they come into the Chappel without their Surplices, and other dangers are growing. The Earl of *Holland* offering, that all this might be reform'd by the King's Commission to visit, which the Archbishop might have: No (said the Archbishop) I desire to have my own Power. Upon the hearing, the King with Advice of his Privy-Council declar'd, That the Archbishop might *jure metropolitico* visit his whole Province, within which the Universities are situate; that they could not be exempted by any Papal Bull, and they were not exempted by Charter; that a long omission to visit could not bar the Metropolitico Right, whereby (and not by a Legatine Power) the Universities had been visited by three Archbishops; and upon resistance made by *Oxford*, it was adjudg'd by R. 2. and H. 4. for the Archbishop, and the Judgments confirm'd by Parliament 13. H. 4. And the Archbishop produced before his Majesty the original Renunciation under the Hands of the Heads of Houses in *Cambridg* of all Bulls and other Privileges from the Pope, dated 27 H. 8. And so the King adjudg'd it for the Archbishop against Himself. The Archbishop then mov'd his Majesty, that he may have this Sentence under the Broad-Seal, and that the Universities may be exempt from the Visitation and Jurisdiction of the Bishop and Archdeacon: And that notwithstanding the Custom of visiting Metropolitically *semel in vita tantum*, he might visit as often as any emergent Cause should move him, if first made known to his Majesty. All which the King granted, and declar'd that at such a Visitation the Chancellor need not appear himself, but should be allow'd his Proctor.

Serjeant *Thin* spake for the University of *Oxford*, which (he said) was a Foundation long before the Conquest, and never had any Visitation by an Archbishop, so that they may prescribe to this Exemption: But the King telling him a bare Prescription would not do it, he reply'd, that tho they had no Records so old, yet that they had divers Recitals in E. 3d's time, which shew they had some Original Grant of Exemption. Pope *Boniface* 8. granted to *Oxford* an Exemption from Archi

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Archiepiscopal Jurisdiction. 'Tis true, this matter coming before King R. 2. the King declar'd that the Visitation belong'd to the Archbishop; but this was grounded on the King's being misinform'd of the Law, and the Archbishop (*Arundel*) was then a potent Man; and this was only an attempt to visit, but neither he nor any other Archbishop ever visited metropolitically; nor was there ever an Appeal in any Cause from that University to the Archbishop: The Archbishop declar'd he did not intend to meddle with the Statutes of University or Colleges, or particular Visitors of any College; but metropolitically to visit the Body of the University, and every Scholar in it, for his Obedience to the Doctrine and Discipline of the Church of *England*. He said the Exemptions of Monasteries, &c. were gain'd of the Pope for Money to bring down the Jurisdiction of Bishops, and the Council of *Trent* and *Spanish* Bishops plaid their parts therein: As for the Popes Bulls, &c. they are all gone at one blow by the Statute of *H. 8.* He said, he would shew a Bond of 1000 *l.* (as well as Deed of Renunciation before-mention'd) from *Cambridg*, not to oppose his Jurisdiction: That *Anno 1506.* *Christ's College* was subject to the Bishop's Visitation: That the Archbishop visited *Cambridg* in his Metropolitcal Right for three whole years together. To which the Recorder reply'd, That that was from 1401, to 1404. in troublesome times, but never the like offer'd at since. *Sir John Banks* Attorney-General argu'd, That the Bulls the Universities insisted on were of no force: for in the Statute of 28 *H. 8.* there is a Saving only of some few which were confirm'd under the Great-Seal, and they shew no such. They object, that the Archbishop hath no Metropolitcal Visitation, for that the University is of the King's Foundation; whereas the Deanry of *Wells* was dissolved, and new founded by *E. 6.* and yet adjudg'd the Archbishop may metropolitically visit the Deanry: As for Prescription, it lieth not against a Metropolitcal Visitation. And it being objected, that *Peckham* visited the Universities not metropolitically, but as *Legatus natus*: *Dr. Duck* answer'd, That *Legatus natus* hath only a Power to grant a Visitation, but not to visit, unless metropolitically: And a difference was taken be-

Ann. 626.

tween the Power of *Legatus natus*, and of *Legatus a latere*; the one may visit, the other not. And the Archbishop said, that Archbishop *Arundel* was banish'd for bringing in a Bull from the Pope: It being usual even in the times of *E. 1.* and *E. 3.* to send forth Proclamations against them that did so. He said, That altho' what was done in *R. 2d's* time was done in a troublesome time, yet *H. 4.* gave the same Judgment, that the Archbishop had a right to visit the Universities, which was confirm'd by Act of Parliament. But the Recorder answer'd, that that Act concern'd not *Cambridge* but *Oxford* only, who had gotten an exorbitant Bull from the Pope to countenance Hereticks and other Malefactors, and oppos'd the Archbishop *manu forti*; which occasion'd that submission to the Judgment of *R. 2.* upon which *H. 4.* grounded his Judgment afterwards, that the Archbishop of right should visit; and *H. 4.* disannul'd the Bull. Here the Lord Privy-Seal interpos'd, that there were Grants of later Kings, which confirm to the Universities such Privileges as they claim by any Charter or Bull: But the King adjudg'd it for the Archbishop against *Oxford*, as he had done against *Cambridge*.

Warrant to
apprehend
Sir Pierce
Crosby.

July 8. A Warrant issued to a Serjeant at Arms to apprehend Sir *Pierce Crosby* Knight and Baronet, against whom an Information was exhibited in the Star-chamber for scandalizing the Lord-Deputy of *Ireland*, and who had withdrawn himself, and to deliver him to a Messenger of his Majesty's Chamber, there to remain until he should have answer'd the said Information and Interrogatories.

Commis-
sions about
Depopula-
tions.

Commissions issued into the several Counties of *England*, to inquire of Depopulations, and converting of Lands to Pasture, since the tenth year of Queen *Elizabeth*; by virtue of which, and the terror of the Fine impos'd on Sir *Anthony Roper* in the Star-Chamber for Depopulations, 30000 *l.* was brought into the Exchequer out of the Counties of *Oxford*, *Cambridge*, *Warwick* and *Nottingham*, and considerable Sums out of other Counties.

Letters Pa-
tents, &c.
for sealing
a constant
Reel.

For preventing the great Deceits frequently us'd among Weavers, Combers, Spinsters, and other Workers of Cloth and Yarn, by the falsifying their Yard in the

the length of the Reel-staff, and in the number of Threads; and for settling a constant course for the said Reel, and increase of the Poors Wages: It was by Proclamation July 9. commanded that the course of keeping the Staff-Reel should be observ'd: That Spinsters should have for their spinning and reeling a Penny increase, and Labourers employ'd about clothing and making Yarn an increase of Wages; and declar'd, That the King had by his Letters Patents ordain'd a constant Reel to be kept by every Clothier, Weaver, Comber, Spinster, and other Workers of Cloth and Yarn, either Wooden or Linen; and the Reel-staff to be one yard about the single Reel, and two yards about the double Reel, every Knot containing fourscore Threads.

22 Car.

August 8. The Lords of the Council writ to the Lord Mayor and Aldermen of London, that by some of the Aldermen they had receiv'd a denial in the name of the City to their Lordships Letter for the setting forth of Shipping for the Defence of the Kingdom, and the Excuses made since proceed from want of Duty: They therefore require them upon their Allegiance, and at their Perils, to see the Directions in that Letter perform'd. And the City afterwards petitioning the Board, That instead of twenty Ships, they might find only ten Ships and two Pinnaces, they alledging Inability; Mr. Secretary Cook by order of the Board answer'd them, The Preservation of the State requir'd the Number they were rated at: That the Charge impos'd upon the whole City exceeded not the proportion of many of their private Estates: That the State would require an account thereof both of the City in general, and of every particular Member: That whereas they mention Precedents, the Precedents of former times were Obedience, not Direction; and there were Precedents too of Punishment of those who disobey'd his Majesty's Commands signified by the Board.

The Council's Letter to the City about Ship-mony.

The City's Petition.

The Council's Answer.

This year died Ferdinand the 2^d Emperor of Germany at Rarishon, in the time of his holding the Diet there for the Election of his Son to be King of the Romans, which he effected, tho Cardinal Richlieu endeavour'd to promote the Duke of Bavaria, but the Son succeeded by the Name of Ferdinand the Third.

Ferd. 2. Emperor dies.

His Son succeeds him.

Ann. 1636. The Father was exercis'd in great and mighty Wars: no sooner was he crown'd King of *Bohemia* but that Nation revolted, and chose another: When he became Emperor, the Sedition of the *Hungarians*, and his own Subjects in *Austria*, and of *Mansfield* and *Halberstad* never left worrying of him while he liv'd: The *Danes*, *English*, *Scots*, *Hollanders*, *French*, *Swedes*, and the whole Body of the Protestant Princes of *Germany* combin'd against him; and he was no sooner got out of one War, but springs up another. He liv'd to see his Son crown'd King of the *Romans*, the *Swedes* to be shut up in *Pomerania*, the *French* beaten out of *Germany*, and the Armies of *Austria* almost at the Gates of *Paris*: He was bigotted by the *Jesuits*, and a mortal Enemy to the Professors of the Reformed Religion.

Proclamation to adjourn part of Mich. Term. *Octob. 2.* The Plague still continuing in and about *London* and *Westminster*, a Proclamation issued for adjourning part of *Michaelmas* Term; and *Octob. 18.* another Proclamation issued for a general Fast throughout *England* upon the same occasion.

King's Instructions to the Scottish Bishops. *October 18.* The King sent Instructions to the Archbishops and Bishops of *Scotland* to this effect: That the Proclamation for authorizing the Service-Book derogate not from his Authority; That in their Kalendar they keep such Catholick Saints as are in the *English*, not to pester it with too many Saints of their own Country; and therein to have regard to those of the Blood Royal, and the holy Bishops most renowned, but by no means omit *St. George* or *Patrick*: That in giving Orders they keep to the words, *Receive the Holy Ghost*, &c. That the *1st*, *2d*, *3d*, *4th*, *5th* and *6th* Chapters of the Book of *Wisdom*, and the *1st*, *2d*, *5th*, *8th*, *35th*, and *49th* Chapters of *Ecclesiasticus* be inserted among the Lessons: That the Service be done twice a day in the Bishop's own Family, and in all Universities and Colleges: The Preface to the Common-Prayer, and the Proclamation to be printed in the Book.

Ld. Keeper's Speech to the Judges. The Lord-Keeper *February 14.* in the Star-Chamber spake to the Judges before they went their Circuits to this effect; That it was his Majesty's Command they should receive some Instructions for the Execution of Justice. In some Pleas before them commutative Justice

Justice beareth sway, as in *meum & tuum*; in others distributive Justice, as in *Premium & poenam*. Some Pleas are of things *ad nocumentum*, of a particular place; others *ad nocumentum totius Regni*: some things before them are *contra Pacem Regis*, others *contra Coronam & Dignitatem Regis*. His Majesty chargeth them to administer impartial Justice, and discountenance vexations and wrangling Suits not worthy the Dignity of their own Persons, or the Court where they sit, for such Actions as they empty the Spleen on one side, so they empty the Purles on both sides. And publick Business, which concerns his Majesty and the Publick, is first to be thought on. He reiterated the Charge he formerly gave them for convicting Recusants; that so such as will not be found in the Church, may be found in the Exchequer. Next they were to proceed severely against Capital Offenders, especially Highway Robbers, who then abounded, and cause the Country to do their endeavours for apprehending them: He recommended to their care the Laws concerning Luxury and Idleness, Vagabonds, Houses of Correction, Alehouses, and binding of Apprentices; which if well observ'd, would save many from the Gallows, prevent a multitude of Enormities, and lessen the number of Thieves and Robbers. His Majesty's printed Orders in 1630. directed an account to be given of these things by the Sheriff and Justices of Peace; but by their (the Judges) own Advice this way was changed, and an Account to be given to them at the Assizes, and they to present it to the Council: But the Account the Council has had is very short, and a better is expected from them the next Term. He desir'd them to cast their Eye upon the Justices of Peace, whether they attend at the Assizes, where they might receive the Judges Instructions; and to examine whether they attended at the Quarter-Sessions, as they are bound by their Oath to do; and that they trust not to the Clerk of the Peace his Information who were absent, but examine his Book themselves: They are to inquire likewise whether they attend the Monthly Meeting, which they are all bound to do by their Commissions, and not to cast that publick Service upon a few: And if after due Admonition the Justices of Peace will not reform, he

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hopes their Lordships will hence forwards give him their names, and he would rid them out of the Commission.

He said, this was the third year his Majesty had issu'd Writs, requiring aid of his Subjects for the guard of the Dominion of the Seas and Safety of the Kingdom. In the first year, when they were directed to the Ports and Maritime Places only, there was little opposition; but when in the second year they went generally throughout the Kingdom, they were disobey'd by some, in Maritime as well as Inland Counties, and Actions have been brought against Persons imploy'd about the execution of those Writs. He said, none could expect that *Arcana Regis* should be made publick, but such Reasons as are fit to be open'd are these: 1. Our Safety is concern'd, for if we lose the Dominion of the Seas, we lie open to all dangers. 2. We are concern'd in point of Honour, that we keep that Dominion. 3. In point of Profit to preserve our Trade, which enriches the Inland as well as Maritime Places, by the vent of our Wool, Lead and other staple Commodities: He cited the same Case as in his former Charge, how the price of Wool fell upon a bare Report, that none should be transported that year; and seeing the whole Realm is concern'd in the Dominion of the Sea, in point of Honour, Safety and Profit, what reason but all should contribute to the maintenance of it? He said, some Counties had express'd their obedience, by bringing in their full Quota's: And when his Majesty understood some refus'd to pay, he writ his Letter to them, the Judges, for their Opinions, who return'd him an Answer under their hands.

King's
Letter to
the Judges
concerning
Ship-money.

His Letter, which was read before them, was to this effect: That the Honour and Safety of the Kingdom (the preservation whereof is only intrusted to his care) being concern'd now more than formerly, by divers attempts to take from him the Dominion of the Sea, he to prevent such a mischief, resolv'd to have a Royal Navy: and considering where the danger is general, the whole Kingdom ought to contribute to the Charge, he had issu'd out Writs to all the Counties of England and Wales, to provide such a number of Ships for that purpose, wherein he had generally found

a chearful compliance; yet some few, either out of ignorance of the Laws, or a desire to be eas'd in their own Particulars, have not paid the Rates set upon them: therefore to prevent such Suits as may probably be commenc'd upon this occasion, and the errors his Subjects may happen to run into, he thought fit to advise with them the Judges, who he doubted not, were well studied in the Right of his Sovereignty. And because Trials in the several Courts, by the formality of Pleadings, would take up a great length of time, he requir'd their Judgment in the inclos'd Case, which may be of Authority to over-rule the prejudicate Opinions of others: The Case was the same *verbatim* with the Judges Opinion, only put by way of Interrogation.

The Judges Opinions were in these following words, *viz.* That when the Good and Safety of the Kingdom in general is concern'd, and the Kingdom in danger, your Majesty may by Writ under the Great Seal of *England*, command all your Subjects of this your Kingdom, at their Charge to provide and furnish such a number of Ships, with Men, Victuals and Ammunition, and for such time as your Majesty shall think fit, for the Defence and Safeguard of this Kingdom from such danger and peril; and that by Law your Majesty may compel the doing thereof, in case of refusal or refractoriness; and that in such case, your Majesty is the sole Judge both of the Danger, and when and how the same is to be prevented and avoided; subscribed by *Bramston, Finch, Davenport, Denham, Hutton, Jones, Crooke, Trevor, Vernon, Crawley, Berkeley, Weston.*

Judges Opinions.

*-Horne, &c.
-Horne, &c.
-Horne, &c.*

The Letter, Case, and Opinion being read in Court, in presence of all the Judges but *Crooke* (who was absent) to the surprize of some of them, the Lord Keeper thus proceeded; This being the uniform Resolution of all the Judges, is of great Authority: For the Lives and Lands of the Subject are to be determin'd by them, much more a Case of this nature, which cannot be burdensome to any: That the King had commanded him to publish this their Opinion in that place, and to give order that it should be enter'd in this Court, the Chancery, King's Bench, Com-

Ld Keeper proceeds.

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mon Pleas and Exchequer; and his Majesty commands them, the Judges, to declare and publish it throughout the Kingdom, that so those who have been in an error, may be either inform'd or reform'd. He said, they could hardly declare it with Honour enough to the King, that in so high a point of his Sovereignty, he would descend to communicate with his Judges; thus Justice and Sovereignty do kiss each other. And they are to let all know, that his Majesty will stop no Man's Suit or Action, but all such may proceed, so the King's Council be call'd, that they may not be surpriz'd. If any contrary Opinion remain among those who are not towards the Law, *Felices demum essent artes, si de illis solum judicarent Artes*; but if among the Sons of the Law, it will ill become the Son to take upon him to be wiser than the Father.

A Remonstrance against Ship-mony.

A Remonstrance to his Majesty was drawn up against Ship-mony, and intended to be presented to him by a private hand, but it met with Obstruction; it was to this effect: That his poor and loyal Subjects of this Kingdom, being oppress'd by the late Taxes for Ship-mony, impos'd without their consent in Parliament, pray'd to be releas'd therefrom, it being contrary to the fundamental Laws and Liberties of this Realm, his Coronation Oath, and his frequent printed Protestations since, in his Answer to the Petition of Right, 3 Car. in his Speech in Parliament printed therewith; and in his Declaration of the Causes which mov'd him to dissolve the last Parliament, wherein he declares, that Right should be done according to the Laws, and the Statutes recited in the Petition of Right put in execution: That what had been done, which some suspected to trench upon the Liberty of the Subject (in the word of a King) there should be no cause to complain of for the future; he having secur'd their Liberties, by his Answer to the Petition of Right, which he would keep inviolable, as he would his own Right and Sovereignty: So that his Subjects should have cause to acknowledg, that they live in a more happy and free Estate than any Subjects in the Christian World. But the Remonstrants alledg'd, that this Tax of Ship-mony was against several Statutes

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Statutes of this Realm, viz. 1. *Magna Charta*, cap. 12 Car. 29 (thirty nine times ratify'd in Parliament) which enacts, That no Freeman should be taken, disseiz'd of his Freehold or Liberties, outlaw'd, exil'd, or otherwise destroy'd, pals'd upon or dealt with, but by the lawful Judgment of his Peers, or the Laws of the Land: But the Subjects have by these Writs for Ship-mony been imprison'd, and their Goods seiz'd, distrain'd and sold, without any lawful Judgment against them, or the right to this Tax legally heard or decided. 2. The Statutes of 25 E. 3. *de Tallagio non concedendo*, 14 E. 1. Stat. 2. cap. 1. 11 R. 2. cap. 9. 1 R. 3. cap. 2. and the late Petition of Right, where by no Tallage, Aid, Loan, Benevolence, or such like Charge, is to be had or levied without common consent in Parliament: But Ship-mony being not with common consent in Parliament, is contrary to all these Statutes. 3. It's against all the Acts of Tunnage and Poundage, and other Subsidies granted to the Kings of this Realm for the Safeguard and Defence of the Seas, as free and voluntary Grants, because they had not power by their Prerogative to lay such Impositions on their Subjects: As first, 14 E. 3. Stat. 1. cap. 20. Stat. 3. the Parliament granted, that King the ninth Lamb, Fleece and Sheep, and the ninth part of all Goods and Chattels in Burroughs for two years space, for the good keeping of his Realm by Land and Sea, and for his Wars, but so as this Grant should not be drawn into example for time to come, and the Parliament appointed how it should be expended. Secondly, 5 R. 2. part. 2. Stat. 1. a Subsidy of Tunnage and Poundage of two shillings upon every Tun of Wine, and six pence per pound of other Merchandizes imported (some few excepted) was granted for two years by the Parliament, and an Army being rais'd for the safekeeping of the Sea, the Parliament appointed the Receivers of what should arise by Prizes, &c. and how the same should be distributed. Thirdly, 4 E. 4. cap. 3. Tunnage was granted to that King for his life, for the safeguard of the Seas; and by 6 H. 8. cap. 14. Tunnage and Poundage was granted to that King for his Life. Fourthly, 1 E. 6. cap. 31. 1 Maria cap. 1, 18. 1 Eliz. cap. 19, all recite that

H. 7.

Ann. 1636.

H. 7. H. 8. and other Kings before them, had granted to them by Parliament, and enjoy'd for the defence of the Realm and safeguard of the Seas, Subsidies of Goods and Merchandizes coming into or going out of the Realm, &c.

'Tis objected: 1. That Ship-mony was paid in the time of *Hardicanute*; but shall that insufferable Tax impos'd not by an hereditary Prince, but by a *Danish* Tyrant, who shortly after died drunk amidst his Cups, be a Precedent for his Majesty? Besides, this and other Taxes were impos'd before our Government was settled by *Magna Charta*, and the other before-cited Statutes, and before Tunnage and Poundage were granted, therefore impertinent to the present case. 2. It's objected, that when King *John* was by the Pope's sentence depriv'd of his Crown and Kingdom, and King *Philip* of *France* had prepar'd a great Army and Navy to put this Sentence in execution, and invade *England*, to get the Kingdom to himself; King *John* commanded Ships ready furnish'd to come together out of all parts of *England*, and issu'd out Writs for an Imbargo on several Ships in the Ports, in order to this service, and rais'd an Army of 60000 select men; but this Precedent makes nothing for these present Writs and Taxes, but much against them: 1. It was before *Magna Charta*, the Statutes against Taxes and Tallages, or the Petition of Right, and before Tunnage and Poundage was granted to guard the Seas. 2. The Writs were directed to the Port Towns that had Ships, not (as these) to the Counties and Places which had none. 3. It was only to Mariners and Owners of Ships, who being exempted from Land-service, were to serve the King and Kingdom at this pinch by Sea; not impos'd (as here) on all, whether they have any Ships or no. 4. It was only to furnish out their Ships, not (as here) to contribute Money, to hire the King's or others, or to Build new. 5. There was no levying of Money to be paid into King *John's* Exchequer, or any Officer's hand, to provide Ships, as now. 6. Altho the Mariners and Owners of Ships were to furnish them at their own Costs, yet then the King was to pay them both Wages, Hire and Freight, as his Successors have done ever since, when they pres'd any

any Ships or Carts for War or Carriage; and so his Majesty both, and payeth Wages and Freight for all the Mariners and Merchant Ships he presses: But this makes nothing for the Subjects to set out Ships to guard the Seas, and serve his Majesty at their own proper Costs and Charges.

There are some other matters in that Remonstrance, for which the Reader is refer'd to the Remonstrance it self, which became publick in the late printing Age.

Sir Robert Berkley one of the Justices of Assize for the County of York, at the Lent Assizes, in his Charge to the Grand Jury, affirm'd Ship-mony as well for the Inland as Maritime Counties, was a lawful and inseparable flower of the Crown; and this he said was the Judgment of all his Brethren, witness'd by their Subscriptions: And if any of them was of a contrary Judgment, as was rumor'd, it was a base and unworthy thing for a man to give his hand contrary to his heart, and wish'd his hand might rot off who was guilty of such a Crime. This was intended of Mr. Justice Hutton and Mr. Justice Crook, who subscrib'd for Conformity with the rest, because the major part, tho they themselves were of a contrary Opinion. He said likewise, that in some cases the Judges were above an Act of Parliament. For these things he was afterwards question'd in Parliament.

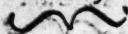
His Majesty sent Thomas Earl of Arundel Ambassador to the new Emperor Ferdinand the Third, to represent to him the condition of his Nephew the Palgrave, whose Patrimony had been taken from him by the late Emperor, and hoping for restitution. But the Emperor answer'd him, that in time he might be consider'd for enjoying the Lower Palatinate, but for the other the Duke of Bavaria was in possession, and would hardly be induc'd to a Treaty disadvantageous to himself. The Duke of Bavaria spake like a Soldier, That what he had with the hazard of his Person and expence of his Treasure won by the Sword, he would maintain the possession of by the same power. The Ambassador might dissatisfy'd (the Eyes of all the Christian Princes being upon this Embassy) came away without taking his leave of the Emperor.

A Judge of Assize his Charge to the Grand Jury in the case of Ship-mony.

E. of Arundel sent Ambassador to the Emperor.

This

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Sir T. Roe
sent Am-
bassador to
the Diet at
Ratisbon.

This being the last time there will be occasion in this second Volume to mention any thing concerning the *Palatinate*, we will take leave a little to digress in point of time.

His Majesty having sent Sir *Thomas Roe* his Extraordinary Ambassador to the Diet at *Ratisbon*, to endeavour a friendly Accommodation of his Nephew the Prince Elector *Palatine's* Affairs, and being resolved in case his said Embassy should prove ineffectual, to second it by more powerful means; He came to his Parliament the 5th of *July*, 1641, and spake to this effect, That his Nephew the Prince Elector *Palatine*, having requested him by the advice of the King of *Denmark* to assist him in a Treaty for his Restoration at the Diet then held at *Ratisbon*, he had sent his Ambassador thither for that purpose, tho he much doubted of the Issue; which his Nephew foreseeing, had desir'd him to make a Manifesto, in his (the King's) name: This being a matter of consequence, he would not do it without his Parliament's Advice, and so left the Manifesto with them, which was to this effect,

His Mani-
festo con-
cerning the
Palatinate.

That to the end the Proceedings of him and his Father King *James*, in the cause of his Sister, Brother-in-law and Nephews, who had by violence and other undue Proceedings been expel'd out of their Dignities and Possessions, contrary to the antient Constitutions of the Empire, may not be forgotten, he hath thought fit to publish a Summary of his Actions and Endeavours past, and his present Resolution: That it was not unknown to *Europe*, how he and his Father had for these twenty years past by Embassies, Treaties, &c. with the Emperor, King of *Spain* and Princes of the Empire, by all friendly means endeavour'd the Restoration of his Sister, Brother-in-law and Nephews, without which no good or durable Peace in the Empire could be expected: That out of his pious Inclinations to Peace, he hath omitted several occasions, whereby he might have prevented the violence us'd to them; and had been led on thereunto by the Promises and Assurances of the Emperor, King of *Spain*, and other Usurpers of the Inheritance of the House *Palatine*, and had been drawn to forbear his Arms in so

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just a Cause : That he and his Father had procur'd the disbanding of Count *Mansfelt's* Forces, and divers Truces had by their Authority been set on foot, with the Deposition of some places of strength into the hands of the late Infanta; but his Endeavours having been ineffectual, his Negotiations eluded, and his Patience abus'd, he is forc'd to protest that he despairs of obtaining any thing by the ways of Justice, Treaty or Amity. Notwithstanding which, having advice from the King of *Denmark*, that the present Emperor and Duke of *Bavaria* have condescended to a Treaty at the Diet at *Ratisbon*, for settling the Controversies of the House *Palatine*, and that he and some of the Electors are accepted of as Mediators therein; and that he hath procur'd safe Conducts for his (the King of *England's*) Nephews or their Deputies to repair thither to plead their own Cause, he hath dispatch'd his own Ambassadors, and desir'd that King to send his to assist at that Treaty : And his Nephew, the Prince Elector, having determin'd to send his Deputies to that Diet, his Majesty resolv'd to make this his last Trial by the way of Treaty, and at the desires of so many Princes to send his Ambassadors also, for the procuring the re-establishment and restitution of the Possessions and Dignities of his Sister, Nephews and the Electoral Family, desiring all Kings, Princes and States who shall be present, or have their Ambassadors or Deputies there, to be assisting therein. And his Majesty having cause to doubt of the Success he might justly expect, doth therefore protest against all Acts, Sentences, Conclusions and Determinations, which shall be made in confirmation of the Oppressions and Usurpations past, or any Additions thereunto, as invalid and of no effect : And that he will not abandon the Cause and Rights of his Sister and Nephews, and other Princes and States involv'd in their Oppressions, but will make use of all his power, by his own Arms and those of his Allies, to vindicate his own Honour and the publick Peace, and to redress the said Usurpations and Oppressions : And he appeals to God and the World, that he will be innocent of the Evils that may ensue, if these his last hopes should be delay'd or abus'd.

This

Ann. 1636.

Votes of
the two
Houses a-
bout it, and
Mr. Hollis
his Speech
to the
Lords.

This Manifesto being debated in the House of Commons, they came to this Resolution: *Die Mercurii 7th Julii, 1641.* That they approv'd of his Majesty's pious Intentions in behalf of his Sister, the Prince Elector and the other Princes of that Family, and of the publishing this Manifesto, and that they will be ready to give his Majesty such advice and assistance by Parliament as shall stand with his Honour, and the Interest and Affections of his People, if the present Treaty succeed not. This Vote *Denzil Hollis Esq;* carried up to the House of Lords, where (after reading it) he spake to this effect, *viz.* That the Commons had commanded him to let them know, that they had taken into their serious consideration his Majesty's Proposal of the Manifesto, and do humbly acknowledg his Favour, asking their advice in the concerns of those distress'd Princes, whose Veins are enrich'd with the same Blood that is deriv'd into his sacred Person; and in that respect the Commons look upon them with an eye of Tendernefs: And to hear that they find Oppression instead of Honour and Greatnefs, and their ancient Patrimony torn from them and detain'd by a hand of Violence, makes the Commons Ears to tingle, who are zealous to see the Prince Elector reinvested in his rightful Possessions, were there nothing else to move them to it but their Affection and Duty to the King. But there is yet another important consideration, the good of Religion, and advancement of the Protestant Party, to which we are oblig'd, not only as Fellow-members of the true Church, but likewise in point of Policy; that by supporting our Allies, we may be formidable abroad to the Enemies of our Church and State. For the Protestant Religion and this Kingdom are like *Hypocrates's Twins*, they must live and die together: It being a madness to think this State can subsist if Religion be subverted, or that our Religion can continue, if it be eradicated out of our Neighbour Countries; any more than that a Fort can hold out when all the Outworks are taken; or the Heart can be preserv'd, when a Gangreen hath seiz'd on the outward Parts. And as true Religion is the Heart of England, so is England the Heart of the Protestant Religion in all the other parts of Christendom, which

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which are under the Protection of this Fort, from whence upon occasion Supplies must be sent out to 'em. On the other side, if those Countries be one after another invaded and possessed by the Enemies of our Religion, they will swallow up one part after another: First the *Palatinate*, then the other parts of *Germany*, afterwards the *Low Countries*, and then *England* will be left as a Cottage in a Vineyard, as a Lodg in a Garden of Cucumbers, or as a besieg'd City when all the Defences are gone. He said that the Commons look'd before them, and chose rather to see this Evil met half way, than to stay till it come to them; rather see the gangreen'd Ambition of the *Austrian* cut off, than tarry till it hath seiz'd the vital parts of this Island, and the death of Religion inevitably follow: That the Commons desir'd their Lordships to join with them in the said Resolution, and that his Majesty may be mov'd by both Houses to recommend this business to the Parliament of *Scotland* for their concurrence. Upon which, *Die Sabbati*, 10 *Julii*, 1641. It was resolv'd by the House of Peers, that they do concur in the said Vote with the House of Commons.

12 *Julii*, 1641. Both Houses attending the King, the Speaker of the House of Peers acquainted him, that the Lords and Commons had seriously consider'd of his Manifesto, and presented their humble Advices to him in the said Votes, which he read to his Majesty; and in the name of both Houses, humbly desir'd, that his Majesty would recommend this Manifesto to the Parliament of *Scotland*, to have the concurrence of that Kingdom. To which his Majesty made this Answer, That he took very thankfully the concurrent Advices of both Houses declar'd in those Votes and Resolutions, and that he would recommend the Manifesto to the Parliament of *Scotland*, not doubting of that Kingdoms concurrence. To return,

Seignior *Gregorio Panzani* the Pope's Nuncio in *England*, and Major *Bret* the Queen's Agent at *Rome* being discharg'd, Seignior *Gregorio Con* (a *Scot*) was appointed by the Pope to succeed *Panzani*, and Sir *William Hamilton* (a *Scot*) sent hence Ledger to *Rome*, where Cardinal *Barberino* was Patron and Protector of the *English* and *Scotish* Nations, as Cardinal *Ludovicus*

12 Car.

Lords and
Commons
present
their Votes
to the King.

His Answer.

Our Cor-
respondence
with Rome.

Ann. 1636. *dovicus* was of the *Irish*; and a special Society of four Orders of *Jesuits* was erected in *England*, where of the Pope's Legate residing there was Patron, and Cardinal *Barbarino* Superintendent.

Princess : *March 17.* The Queen was deliver'd of the Lady
Ann born. *Ann* her third Daughter.

Starchamber Cases, Anno 1636.

Att. Reg. *Hill. 12 Car.* The Defendant *John Ray*, having in
ore tenus the year 1630, after his Majesty's Proclamation pro-
vers. Ray. hibiting the Transportation of Wool and Fullers-
Transport- earth, ship'd off 76 Loads of Fullers Earth, consign'd
ing of Ful- to Mr. *Henry Bakdrae* residing in *Rottterdam*, but enter'd
lers Earth. in the Customhouse for the Port of *Lynn*, which Ful-
lers Earth was landed in *Holland*, and there sold by
him; and he having before that transported another
quantity of Fullers Earth, the Court declar'd this
an Offence of a high nature, tending to the robbing
of the Kingdom of the Trade of making Cloth, on
which so many poor People depend, and the defraud-
ing his Majesty of his Customs, by colour of a Port-
Coquet. The Defendant was committed during his
Majesty's pleasure, and if ever enlarg'd, to be bound
to his good behaviour, fin'd 2000 *l.* and to be set in the
Pillory with a Paper on his head.

Att. Regis The Defendants *Peter Hern*, *Henry Sweeting* and
vers. Hern *John Terry*, had at several times transported quanti-
& al. ties of Gold to *France*, viz. *Hern* 3500 *l.* *Sweeting*
Transport- 1500 *l.* and *Terry* 350 *l.* The Defendant *Arnold*
ing Gold, *Brames* had transported divers quantities of foreign
and melt- Coin and Bullion into *France*, *Flanders*, &c. The
ing down Defendant *Timothy Eman* had for ten years together,
Coin. cull'd out by the ballance the heaviest shillings and
six-pences, and then sold them by the Ounce, at 14,
15 or 16 *l.* profit for every 100 *l.* and for four years
together cull'd 50000 *l.* a year, which produc'd year-
ly 7 or 8000 *l.* heavy Mony, part whereof he melted
down into Ingots, but the greatest part to the value
of 20000 *l.* he sold unmelted, and frequently gave
two or three shillings in a hundred pounds to have the
culling of heavy *English* Mony; and in about nine
years space he melted down 20000 *l.* by which he
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made above 1000 l. profit. The Defendant *Henry Futter* furnish'd one *Violet* with 1000 l. of Light Gold, knowing he bought it for Transportation: And the Defendant *John Perryn* bought heavy *English Coin*, and melted the same into Bullion; which Transportation of Gold and Silver Coin without his Majesty's Licence, or melting down the same, was forbidden by Proclamation. All seven Defendants were committed and fin'd; *Hern, Terry* and *Eman* 2000 l. a-piece, *Brames* 1000 l. *Futter* and *Sweeting* 500 l. a-piece, and *Perryn* 100 l. but the other Defendants *Isaac Gould*, *Randal Crew* and *Luke Lee*, were not censur'd, altho it appear'd, that they being *East Country Merchants*, had carried over in their Ships some small quantities of *Rixdollars*, which the Court declar'd to be an Offence punishable there, if done without his Majesty's Licence; but consider'd that the necessity of their Trade requir'd the Exportation of some Mony with them.

An Information was exhibited in the Star Chamber by the Attorney General, against *John Bastwick* Doctor in Physick, *Henry Burton* Batchelor of Divinity, and *William Pryn* Barister at Law Defendants, for writing and publishing seditious, schismatical and libellous Books against the Hierarchy. They prepar'd their Answers, but the Counsel being backward for fear of offending the Court, they petition'd they might sign their Answers themselves, which was denied; and the 28th of *April* the Court order'd them to put in their Answers by Monday sevensnight under their Counsels hands, or else the matters of the Information to be taken *pro confesso*. Mr. *Pryn* & *Mait* again petition'd them, That having been for above a week debar'd Access to his Counsel, and his Servant, who should sollicite for him, being detain'd close Prisoner in a Messenger's hands, and it being difficult to get his Counsel to repair to him during the Term; he having been a Barister at Law, pray'd he might (according to former Precedents in that Court) have liberty to put in his Answer by the day prefix'd, under his own hand, and not under his Counsel's, who refus'd it out of Fear and Cowardice; for which he alledg'd these Reasons:

Ann. 1637.
Information against
Pryn, Bastwick and Burton.

1. Close,

Ann. 1627.

1. *Clofe*, Dr. *Layton* and others had been allow'd this, and but one Precedent againſt it; where upon a ſpecial reaſon, and in caſe of a Woman, not of a Man, much leſs of a Lawyer, it was denied. 2. Upon an *ore tenus* in this Court, in many caſes at the Council-Table, in Parliament, and in the King's Bench upon Indictments and Informations (eſpecially in caſes of Felony or Treason) the Defendants make their Defence without Counſel. 3. Counſel is allow'd not of neceſſity but favour, as a help to the Defendants; but when they find them no help, but that they adviſe them to their prejudice, why may they not answer without them? 4. Every Answer in the eye of the Law, is the Defendant's not the Counſel's. 5. Shall an innocent man ſuffer without Conviction, thro' the Want, Fear, Neglect, Ignorance, Diverſity of Opinion, or Treachery of Counſel? 6. The Law of Nature teacheth every Creature, Man eſpecially, to defend himſelf; and in the preſent caſe, the Defendant's Answer reſteth upon Books, matters of Divinity and other points, wherein Counſel have little Skill: how can they defend him in a Cauſe they underſtand not? 7. At the general day of Judgment, every Man ſhall be allow'd to make Answer for himſelf; much more ſhould earthly Judges allow the ſame, where others will not or dare not. 8. By the Judicial Law among the *Jews*, and by the Civil Law among the Pagan *Romans*, every one might answer for themſelves: *Naboth*, *Suſannah*, *Chriſt* and others, tho' unjuſtly condemn'd, yet were not condemn'd as guilty for not answering by Counſel. 9. *St. Paul* when he was ſlander'd and accus'd by *Ananias* the High Prieſt and *Tertullus*, and ſeveral times before *Felix*, *Festus* and *K. Agrippa* (three Heathen Magiſtrates) was ſuffer'd to ſpeak for himſelf without any Counſel aſſign'd. The Defendant therefore hopes, that he being accus'd in this Court, by the *Engliſh* Prelates and High Prieſt's Inſtigation, of Sedition and other ſuch like Crimes as *St. Paul* was, ſhall enjoy the ſame Privilege and Freedom before Chriſtian Judges, as *St. Paul* had among Pagans; which his Adverſaries will not be againſt, unleſs they will be deem'd more unreaſonable than *Ananias* himſelf; eſpecially the Defendant having been a Bariſter and Counſellor at Law, for-

formerly admitted in this Court to put in Answers under his hand in other mens Cases.

Upon reading this and a Petition from Dr. *Bastwick* to the same purpose, alledging his Counsel refus'd to sign his Answer, the Court adher'd to their former Order, that they should by Monday put in their Answers under Counsel's hand, or else to be taken *pro confesso*: *Pryn* and *Bastwick* thereupon left their Answers under their own hands at the Office, and tender'd another draught thereof to the Court.

Before this Petition of Mr. *Pryn*, he and the two other Defendants put in a Cross Bill under all their hands, against the Archbishop of *Canterbury* and others of the Prelates, wherein they charg'd them with usurping upon his Majesty's Prerogative Royal, with Innovations, licensing *Papish* and *Arminian* Books, &c. and set forth the substance of their Answers. The Bill being ingross'd and sign'd by them, Mr. *Pryn* tender'd it to the Lord Keeper, praying it might be accepted without Counsel's hands, who durst not sign it: The Lord Keeper upon reading the Cross Bill refus'd to admit it, but deliver'd it to the King's Attorney. The Archbishop nettled thereat, demanded the opinion of the Judges, whether they could not be punish'd as Libellers; who all but one answer'd negatively, for that it was tender'd in a legal way, and the King's Courts are open to all men. The Archbishop then apply'd to the Court of Star Chamber, and inform'd them, That in some Books and Pamphlets lately publish'd, his Grace and the other Bishops are said to have usurp'd upon the King's Prerogative, and proceeded in their Courts contrary to Law. He pray'd the Court would require the Judges to give their Opinions therein, and the Court accordingly desir'd their Opinions in the points following: 1. Whether Process may not issue out of the Ecclesiastical Court in the names of the Bishops? The Judges answer'd affirmatively. 2. Whether a Patent under the Great Seal be necessary for keeping Ecclesiastical Courts, and for Citations, Suspensions, Excommunications and other Censures? Whether Citations must be in the King's Name and under his Seal of Arms? The like for Institutions, Inductions, and Corrections of Ecclesiastical Offences? They answer'd, that a Patent

They exhibit a Cross Bill against the Bps.

Judges Opinions about the Bps keeping Courts in their own names.

Ann. 1637.

under the Great Seal is not necessary in any of those cases; nor is it necessary that Summons, Citations, or other Process Ecclesiastical, or Institutions, Inductions, or Corrections of Ecclesiastical Offences should be in the King's Name, or with his Stile, or under his Seal, or that their Seals of Office have in them the King's Arms, the Statute of 1 E. 6. Ch. 2. being not now in force. 3. Whether Bishops, Archdeacons, &c. may keep any Visitation, without Commission under the Great Seal? They answer'd, they may; which Opinion of the Judges being certified into the Star-Chamber under the hands of eleven of the twelve who subscrib'd to the Legality of Ship-mony (whether *Crawley* was then dead appears not) the Court at the Prayer of the Attorney-General order'd the said Certificate to be recorded there, and in the other Courts at *Westminster*, the High-Commission, and other Ecclesiastical Courts; and afterwards the original Certificate to be deliver'd to the Archbishop of *Canterbury*, to be preserv'd among the Records of his Court.

Dr. *Bastwick* having left his Answer at the Office as aforesaid; the Court taking notice, that it was five Skins and a half of Parchment close written, and (as was alledg'd) contain'd much scandalous and defamatory matter, order'd, That all the Matters in the Information wherewith he is charg'd, should be taken *pro confesso*: Dr. *Bastwick* notwithstanding petition'd again, that his Answer might be accepted under his own hand, but to no purpose. And Mr. *Pryn* in a second Petition desiring the Court not to require Impossibilities of him, his Counsel's hands not being at his Command (for thus the most innocent Man may be betray'd and condemn'd through the unfaithfulness, wilfulness, fear, corruption, or default of Counsel) he pray'd them to deal with him as they would be dealt with themselves, were they (which God forbid) in his condition; and as they would have Christ proceed with them at the day of Judgment: He crav'd only so much Favour and Justice as Christ found before *Pilate*, and *Paul* before *Felix*, *Festus* and *Agrippa*, or as every Traitor and Felon enjoys in the Courts of Justice, to answer for himself, when his Counsel will not, cannot, or dare not; especially in this weighty Cause

Cause highly concerning his Majesty's Royal Prerogative, the safety of Religion, and the good of the whole Realm: He pray'd the Answers and cross Bill of him and the other Defendants against the Prelates late dangerous Encroachments, Innovations, Practices and Oppressions, may be accepted under the Defendants own hands; and the Petitioner (upon granting his Petition) should ever pray for their Lordships, &c. The Court hereupon commanded Mr. *Holt*, one of Mr. *Pryn*'s Counsel, to repair to him in the Tower, and take Instructions for his Answer; and the Lieutenant of the Tower was sent for and check'd by the Lords for suffering Mr. *Pryn* to dictate such a Petition; and one *Gardiner* who writ it from his Mouth by the Lieutenant's Licence was the same Evening by a Warrant from the Archbishop and others apprehended by a Pursivant, detain'd about 14 days, and not releas'd till he had given Bond to appear when call'd.

Mr. *Pryn* upon Mr. *Holt*'s repair to him gave him his Fee, and Instructions for drawing his Answer; and the same being agreed on and settled by Mr. *Holt*, and Mr. *Tomlins* his other Counsel, Mr. *Holt*'s Clerk ingross'd it; but *Holt* then refus'd to sign it, saying he had express order to the contrary, and would not do it for 100*l.* and in the mean time *Tomlins* went into the Country. Mr. *Pryn* thus deluded, requested the Lord-Keeper, the chief Judge of that Court, to command Mr. *Holt*, who had drawn it, to sign it: But the Lord-Keeper answer'd, he had no power to compel Counsel to sign an Answer. And the Court May 19. positively order'd that for their Contempts in not putting in their Answers, the matters against *Bastwick* and *Pryn* should be taken *pro confesso*, and the Cause against them should be heard the first sitting of the next Term. As for Mr. *Burton*'s Answer, it was sign'd by Mr. *Holt*; but after it had been near three weeks in Court, upon Mr. Attorney's suggestion that it was scandalous, the Court refer'd it to the two Chief Justices *Brampton* and *Finch*: The latter revil'd *Holt* exceedingly, and told him he deserv'd to have his Gown pull'd over his Ears for drawing it: *Holt* reply'd, that it was only a Confession or Explanation of the Charge in the Bill, and a recital of Acts of Parliament;

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liament; and how that could be scandalous or impertinent he could not conceive. But the two Chief Justices certified it to be all scandalous and impertinent, except the usual words in the beginning, *The said Defendant by Protestation not confessing, &c.* and the words in the latter end, containing his Plea of Not guilty, the common Averment that he was ready to prove the Matters of his Answer, his Prayer of a favourable Interpretation, and to be dismiss'd: So all the body of his Answer, containing about 40 Sheets of Paper, was expung'd, and nothing but the Head and Feet remained: And by his Plea of Not Guilty to all, he was made to deny that which he had confess'd, and justified in his Answer: And the Examiner coming afterwards to him to the Fleet with Interrogatories grounded on his Answer, he refus'd to be examin'd unless his Answer might be admitted as it was put in, or he permitted to put in a new one. The Court order'd the Examiner to repair to him a second time with the Interrogatories, but he persisting in his refusal to be examin'd, for that the Answer now in Court was none of his, the Court order'd the Matter of the Information and Interrogatories to be taken against him *pro confesso*: And on the 13th of June the Court order'd the Cause against all three Defendants to be heard the next day, and that in the mean time they should have liberty with their Keepers to attend their Counsel. This was look'd upon as short warning by some, who affirm'd that by the course of the Court a *Subpoena ad audiendum judicium* should have been serv'd upon them fifteen days at least before the day of hearing, which was not done. However Mr. Pryn made use of his Liberty, and repair'd to Mr. Tomlins (then newly return'd) with his Answer drawn up and ingrossed as aforesaid, who sign'd it, but Mr. Holt said he durst not; then Mr. Pryn tender'd it thus sign'd to Mr. Good at the Office, but he utterly refus'd to take it.

Mr. Burton in his Answer set forth the Substance of his Sermon which he preach'd the fifth of November in his Parish Church in *Friday-street*, touching the Innovations brought into the Church. Dr. Bastwick in his Answer term'd the Prelates Invaders of the King's Prerogative, Contemners of the Scriptures, Advancers of Popery, Super-

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Superstition, Idolatry, Profaneness, Oppression of the King's Subjects, in the impious performance whereof they shew'd neither Wit nor Honesty; Enemies of God and the King, and Servants of the Devil. Mr. *Pryn*'s Answer was much against the Hierarchy, but in more moderate and cautious Expressions.

June 14. The Lords being set in their places in the Star-Chamber, and the three Defendants brought to the Bar, to receive their Sentences; the Lord Chief Justice *Finch* looking earnestly on Mr. *Pryn*, said, It seem'd to him that he had Ears still notwithstanding his former Censure; whereupon the Usher being commanded to turn up his Hair, some of the Lords seem'd displeas'd that his Ears had not been cut closer off. But Mr. *Pryn* answer'd, there was not one of them there but would have been sorry to have had his Ears so cropt: He then made three motions; 1. That they would accept of their cross Bill, sign'd with their three Hands for want of Counsel, which Bill he formerly tender'd to the Lord Keeper, who refus'd it. But he was told this was not the business of the day. 2. That the Prelates mention'd by Name in the Information being known to be Prosecutors and Parties, might have no Voice in the Censure of the Cause. The Lord Keeper said it was a sweet Motion; for by the same rule, if they should libel against all the Lords and Judges, as they had done against the Prelates, there would be none to pass Sentence on them. Mr. *Pryn* reply'd, The case was not alike; for here were only one or two Members of that Court which are said to be libel'd against: And his Lordship himself in his Case against *Norton* absented himself from the hearing, because a Party, which is usually done by the Lords in the like cases. But this prevail'd nothing. 3. That they would receive his Answer to the Information, sign'd with one of his Counsel's hand, which as soon as he could get sign'd he tender'd at the Office, where it was refus'd: But the Lord Keeper told him his Answer ne came too late. Then the Information was read, being very large; and having these five Books thereto annex'd, viz. Dr. *Bastwick*'s Latin Apology, his Litany, Mr. *Burton*'s Book, The News from *Ipswich*, and the Divine Tragedy, which last it fell to the King's

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Sollicitor's part to descant on, he said; *Noy* late Attorney-General was therein shamefully abused, as if for prosecuting Mr. *Pryn* for his *Histrionastix*, and as he was laughing at him while he was suffering upon the Pillory, he was struck with an Issue of Blood in his Privy Parts, which could never be stop'd till his Death; which, said he, three or four Gentlemen of Credit and Rank now in Court, can testify Mr. *Noy* had long before: And the Sollicitor call'd out for room to be made for the Gentlemen to come in there, but none such appear'd.

The Lord-Keeper then told the Prisoners, they had leave to speak for themselves (provided their Speeches were modest and not libellous) and to shew cause why the Court should not proceed to Censure. Mr. *Pryn* began: He said, he expected some particular Charge to be prov'd against him. Dr. *Bastwick* and Mr. *Burton* were charg'd with particular Books to the Information annex'd, but none of the Books were laid to him: His sole Offence, for which the Information must be taken *pro confesso*, was his not putting in his Answer under Counsel's hand by a day prefix'd; whereas he took out a Copy of the Information, petition'd for Counsel, who were assign'd him, but some of them being out of Town, the others would do nothing till they could all meet in Term, and peruse the Information, and Books there-to annex'd: Being jointly charg'd with Dr. *Bastwick* and Mr. *Burton*, they were not suffer'd to meet and confer together, no not at Counsel: A day or two before the Term he was debar'd access to his Counsel, and of Pen, Ink or Paper, and so disabl'd to draw up his Answer, or Instructions for Counsel; his Servant who should solicit for him imprison'd, without admitting him to Bail; his Friends deny'd access, his Chamber twice search'd, and part of his Answer and Instructions taken away by Mr. *Nicholas* a Clerk of the Council: His Counsel neglected to come to him: Their Lordships refus'd to let him put in his Answer under his own hand, tho a Counsellor at Law, contrary to former Precedents: That when by their order Mr. *Holt* came to him in the Tower, he gave him his Fee and Instruction, and afterwards Mr. *Holt* and his other Counsel agreed upon his Answer, caus'd it to be in-

gross'd

gross'd, and promis'd to sign it, but then Mr. Holt ^{13 Car.} refus'd to do it; that Mr. Tomlins signing it, he carry'd it to the Office, where they refus'd it: Then he tender'd it to the Court under Tomlins's hand. He said, If an Award be made that *A.* shall together with *B.* and *C.* enter into a Bond of 100*l.* to *S.* the Award is void, because *A.* hath no power to compel *B.* and *C.* to enter into such a Bond. His Case is the same: The Court order'd him to put in his Answer under his Counsel's hand; he endeavour'd it, they refus'd to sign it, he had no power to compel them, and desir'd the Court to order them to sign it; but the Court reply'd, they had no power to enforce them: How then could he a close Prisoner compel them, if the Court could not? By this means the most innocent Person may be made guilty of what Crimes they pleased. He appeal'd to Mr. Holt (then present) if he had not us'd all his endeavours to get him to sign his Answer; Mr. Holt to excuse himself said, that Mr. Pryn sent him some forty Sheets of Instructions for an Answer, and soon after sent him more; that he finding the Answer so long, and of such a nature, durst not sign it for fear of offending the Court. Mr. Pryn again tendering his Answer sign'd by his other Counsel, the Lord-Keeper told him his Case was good Law, but ill apply'd; and that the Court desir'd no such long Answer, but only whether he was guilty or not guilty. Mr. Pryn took not much notice of that, but urg'd, That by the Statutes of *Phil. & M.* and of *Eliz.* in the case of libelling the King or Queen, the Party's Confession, or two Witnesses face to face are requir'd, else no Conviction; and here is neither. He desir'd all present to take notice, that he tenders his Answer upon his Oath: But the Lord-Keeper bid him hold his peace, for his Answer came too late. Dr. Bastwick spake next to this effect; He desir'd them to set before their Eyes the Example of God himself, who said he would go down and see whether the Inhabitants of *Sodom* and *Gomorrhah* had done all things according to the Cry that was come up unto him; and he would have their Lordships come down and see whether all things be according to the Cry of Sir *John Banks* the Attorney Universal; He deny'd he knew the Authors of the *Divine Tragedy*,

Ann. 1637. *Tragedy, and News from Ipswich.* Being ask'd by the Lord-Keeper whether the Apology *ad Prasules Anglicanos*, and the Sentences read in it were not his? He answer'd, part of it was not his, but added by some other, and particularly one of the Sentences which had been read. Being ask'd by the Earl of *Dorset*, whether he did not send that Book with a Letter to a Nobleman? He confess'd it; but said he had distinguish'd between what was his own and another's, and that the Clerk of the Star-Chamber had murder'd his Latin in the reading of it, and many of their Lordships understood it not, and therefore will not give Sentence in a Cause they knew not, nor take it *pro confesso*, when his Counsel durst not sign his Answer for fear of the Prelates; and that he now tender'd his Answer subscribed by himself to the Court, as he had before done at the Office; which if they refus'd, he would put it in *Roman Buff*, and disperse it through the Christian World, that all Men might see his Innocence, and their illegal Proceedings. And the Earl of *Arundel* wondring the Court would suffer him to trouble them, when the Cause was taken *pro confesso*, the Doctor urg'd the Sayings of *Nicodemus* and *Festus*, that no Man was to be condemned before heard; and the Cause in that Court but the last Term between Sir *James Baggs* and the Lord *Mohun*, where so much deliberation was us'd before the Court would proceed to Judgment. He said, he understood by the Prelate's own Servants and some of the Priests, that it was long since resolv'd to cut off his Ears: What (said he) will you cut off a loyal Subject's, a Scholar's, a Doctor of Physick's, a Soldier's, a Christian's Ears? Will you make Curs of Christians?----But the Lord-Keeper interrupting him, told him he was now angry, and should speak no more. Mr. *Burton* then spake to this effect; That he put in his Answer sign'd by one of his Counsel, which consisted of an Affirmative of what he confess'd and justified, and of a negative Plea of not guilty: That the two Chief Justices had expunged all the Affirmative part with his Justification, as impertinent and scandalous, with a general Not guilty left, which contradicteth the part expung'd, touching what he had confess'd: And upon this account it was that he refus'd to answer to

to Interrogatories, for that there was then no Answer of his in Court. Upon this refusal, the whole Information was order'd to be taken *pro confesso* against him. A Copy of his Reasons for such refusal he now tender'd to the Court, but it was refus'd: Then he desir'd that his whole Answer, as he had put it in, might be read, that the Court may judg, whether what was expung'd upon the two chief Justices Certificate were impertinent and scandalous; but this was likewise refus'd: And the Lord Chief Justice *Finch* told him, his Answer was as libellous as his Book. Mr. *Burton* then took occasion to declare how he fell into this trouble, viz. by his Sermon *Novemb. the 5th*, on *Prov. 20, 21, 22. My Son, fear thou the Lord and the King, and meddle not with them that are given to change, &c.* where he exhorted his People to take heed of those Innovations which were crowding in among us; for which being cited into the High Commission Court, and suspended *ab officio & beneficio*, he set forth his two Sermons, with an Apology and Epistles to his Majesty, the Nobility and Judges, that due notice may be taken by them of such Innovations, and a Reformation follow. The Lord Keeper thereupon asking him, whether he confess'd the Book to be his; he acknowledg'd he writ such a Book, but knew not whether that be it which was affix'd to the Information, he having never read it. And the Lord Keeper telling him it was full of sharp Language, unbecoming a Minister; he reply'd, he could answer to those Passages excepted against if he had time, and a Minister had a greater latitude in reprovng Sin than ordinary men; he said, he chose rather to expose his Person to the censure of that Court, than to desert his Cause and his Conscience.

The Court proceeded to Sentence, fin'd the three Defendants 5000 *l.* a-piece to the King, adjudg'd them all to stand in the Pillory in the *New Palace-yard* in *Westminster*: *Bastwick* and *Burton* to lose their Ears, and *Pryn* the remainder of his Ears; *Pryn* to be stigmatiz'd on both Cheeks with the Letters *S. L.* signifying a seditious Libeller: All of them to suffer perpetual Imprisonment, *Pryn* in *Carnarvan Castle* in *Wales*, *Bastwick* in *Launceston Castle* in *Cornwal*, and *Burton* in *Lancaster Castle*. When

Pryn, Bastwick and Burton
sentenc'd.

Ann. 1637.

ArchBp's
Speech
thereupon.In Jul.
c. 75.In Apol. 1.
David c. 6.

When it came to the Archbishop of *Canterbury's* turn to sentence them, he spake to this effect; That in some cases Libelling was Capital by the Imperial Laws, as appears *Cod. l. 9. T. 36.* that great Men have born *Animo Civili* ('tis *Suetonius* his word) *laceratam estimationem*, the tearing of their Reputation with a generous Mind; but the most odious of all Libels are those which pretend Religion: Did any Martyr or Confessor under the most barbarous Persecutions ever libel the Governors? It is not every man's Spirit can hold up against the venom which Libellers spit. *K. David* indeed had found out *grande inventum* (as *St. Ambrose* calls it) how to swallow those bitter Contumelies of the Tongue: For his part it was better for him to look upward and practise it, than to look downward and discourse of it; for no man should be asham'd of doing good, because others glory in speaking ill: And he had done nothing as a Prelate, but with a single Heart, for the good Government and Honour of the Church, and Maintenance of the true Religion establish'd in the Church of *England*: His Care of the Church, reducing it into order, upholding the external Worship of God, and settling it to the Rules of the first Reformation, are the Causes of all this Outcry of Innovations; whereas they who thus cry out, are the greatest Innovators the Christian World hath almost ever known, and are as great Incendiaries in the State, as in the Church. It is a great trouble to these men (said he) that we maintain our Calling of Bishops to be *jure divino*, which he said was true, tho not of all Adjuncts to their Calling: The Church having been govern'd by Bishops ever since the Apostles time, and Lay-elders never heard of till *Calvin's* newfangled device at *Geneva*: Nor doth this take from the King's power over the Bishops, whose Office it's true is from God and Christ immediately; but they may not exercise that power either of Order or Jurisdiction, but as God hath appointed, *viz.* by and under the power of the King; and the same Argument these men use against Bishops, they may use against Priests and Ministers, whom yet they grant to be *Jure Divino*; and if the Bishops were not so, yet they are *Jure Ecclesiastico*, and here in *England* confirm'd

firm'd by Act of Parliament ; so that libelling against the Calling of the Bishops, is libelling against the King and the Laws. Why did not these men modestly petition his Majesty to reform what was amiss ? But one of them must clamour out of the Pulpit, and all of them from the Press, in a virulent and unchristian manner, against their Callings and Persons ; he pitied their Rage, and pray'd God to forgive their Malice. No Nation is more zealous of their Religion than *England*, but that Zeal hath not always been guided by Knowledge ; and these men have labour'd to misinform the Peoples knowledg, and fire their Zeal into Sediti- on : For the main scope of their Libels is, to make them jealous that there is a dangerous Plot (so saith Mr. *Burton* expressly) to change the Orthodox Reli- gion for (he knew not what) Romish Superstition. Hereby the King is desperately abus'd by withdrawing the Peoples Hearts from him, tho no Prince in *Chris- tendom* is more sincere in his Religion, a Testimony whereof he gave in *Spain*, as my Lord of *Holland* (then in Court) could testify, and he is at this day more settled and confirm'd therein : The Prelates too are shamefully abus'd, and charg'd to lay the Plot and be the Instruments ; but if any Prelate should be so base, as to endeavour the bringing in the Romish Su- perstition, and these Libellers or any others can dis- cover him, no man's hand shall be more against him than his, to bring him to Shame and Punishment. He said, he knew of no Plot to alter the Religion Esta- blish'd, nor hath he attempted any thing that might tend that way ; and had the King a mind to change Religion, which he knoweth he hath not, he must seek for other Instruments : For his part he will serve God first, and the King next. But what Art have these Men us'd to make the World believe a change of Re- ligion is endeavour'd ? Why, there are great Innova- tions brought in by the Prelates, which tend to the advancing of Popery : He crav'd leave (that so the Falshood of this may appear) to recite these Innova- tions charg'd upon them, and briefly to answer them.

He began with *the News from Ipswich*, where the Innovations charg'd are these : 1. That the last Year's

Fast

Pag. 2.

Ann. 1637.

Pag. 3.

Ibid.

Ibid.

Fast was enjoind to be without Sermons in *London*, the Suburbs, and other infected Places; whereas Sermons are the only means to humble Men. *Answ.* 1. It was done to prevent mens flocking to Sermons in infected Places. 2. This was no Act of the Prelates but of the Council-Table, that infected Persons or Families, known to be such in their own Parishes, might not run on those By-days to other Churches, where they were not known, to hear some humorous Men preach, for on Sundays they better kept their own Churches. 3. Having no Sermons is the only means to humble Men, some of them being fitter to stir up Sedition, as Mr. *Burton's*, which was a Sermon first, and a printed Libel afterwards. Second Innovation, Wednesday was appointed for this Fast-day without Sermons, by this example to suppress all the Wednesday Lectures in *London*. *Answ.* 1. Appointing Wednesday for the Fast-day is no Innovation; it was the day the last Fast, and was so before more than once within his Memory. 2. He appeal'd to the Lord Keeper, whether it was not he that nam'd the Day as the fittest, and yet he dar'd swear his Lordship aim'd not to bring in Popery, or to suppress the Wednesday Lectures. Third Innovation, That the Prayer for seasonable Weather was expung'd out of the last Fast-book, which was one cause of the Shipwrecks and Tempests. *Answ.* 1. This and all other Fast-books are made by the Command of the King, by whom the Archbishops and Bishops are impower'd to put in or leave out what they think fit for the present occasion, and they will justify all such Alterations. 2. The Weather then was very seasonable, the last time before it was extreme bad. 3. 'Tis inconsequent to say, that was the cause of the Shipwrecks and Tempests that follow'd; but had the Bishops been Prophets, and foreseen those Accidents, they would have pray'd against them. 4. Any Minister might have safely us'd that Prayer in the Liturgy, if he had found it necessary. 5. He desir'd their Lordships to weigh well the consequence; the Prayer for fair Weather was left out of the Fast-book, therefore the Prelates intend to bring in Popery. Fourth Innovation, An useful Collect, and a Clause in another are omitted. *Answ.* 1. The Bishops might alter

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alter what they thought fit: 2. In that Collect was mention'd Preaching, which by an Act of State was forbidden in infected Places. 3. For the branch in the other Collect, tho God deliver'd our Forefathers out of *Romish* Superstition, we were never in it. Fifth Innovation, In the sixth order for the Fast, there is a Passage left out concerning the abuse of Fasting, in relation to Merit. *Ans.* It was left out, because in this Age and Kingdom there is little opinion of meriting by Fasting, but on the contrary, a Contempt of Fasting in *Lent*, and at other times appointed by the Church. Sixth Innovation, The Lady *Elizabeth* and her Children are dash'd out of the new Collect, tho in the old. *Ans.* 1. They are left out in the Collect in the later Editions of the Common Prayer Book by the King's Command, and for that the course of the Church is to name none but the right Line descending. 2. The Queen of *Bohemia* and her Children are left out of the Collect, therefore the Prelates intend to bring in Popery; intimating very dutifully to the People, that the Queen of *Bohemia* and her Children would keep Popery out, but the King and his Children will not. Seventh Innovation, These words, (*who art the Father of thine Elect, and of their Seed*) are chang'd in the Collect appointed for the Prince and the King's Children; which was done by the Prelates, to exclude the King's Children out of the number of God's Elect. *Ans.* 1. This Alteration was in his Predecessor's time. 2. Yet not by his Predecessor, but by the King's Command, who had then no Children. 3. This Collect had no being all *Q. Elizabeth's* Reign, she having no issue, but was made at the coming in of King *James*, and must be chang'd as Times and Persons vary.

These seven Innovations are likewise in Mr. *Burton's* Apology, where he hath added these that follow: Eighth Innovation, In the Epistle the Sunday before *Easter*; the Prelates have put out (*In*) and made it At the Name of Jesus every Knee shall bow, which is directly against the Act of Parliament. *Ans.* 1. 'Tis At the Name of Jesus in the late learned Translation in King *James's* time; and if any thing were falsely printed in the Common Prayer Book, confirm'd by Parliament,

13 Car.

Pag. 3.

Ibid.

Ibid.

Burton's
Apology,
p. 2.

Ann. 1637. ment, such slips were not intended to be confirm'd.

2. If one word be put in for another, so they bear the same sense, what great matter is it? 3. In the Name and At the Name can make no essential difference; and Mr. Pryn (whose business it has been to cry down the Honour due to the Name of Jesus) knows the Grammar Rule, In a place or At a place, &c.

4. He protested he knew not how (In) came to be chang'd to (At) the Printers having no order from the Prelates: But it might be done to gratify the precisest sort, it being in the Geneva Translation 1557, At the Name of Jesus, &c. In the Queen's Injunctions 'tis neither In nor At, but that when the Name of Jesus be pronounc'd in the Church, all should crouch, and the men uncover their heads.

In Octavo. Ninth Innovation. Two places in the Prayers for the 5th of Novemb. order'd to be read by Act of Parliament, are in the Book printed 1635, chang'd; the one from, that Babylonish and Antichristian Sect which say of Jerusalem, &c. into, that Babylonish and Antichristian Sect (of them) which say, &c. the other from, whose Religion is Rebellion, into, who turn Religion into Rebellion.

Injunct. 52. Pag. 3. *Ans.* 1. 'Tis untrue, that any Form of Prayers for that Day was appointed by Act of Parliament; only Prayers and Thanksgivings in general, the Form being left to the Church. 2. The first Alteration from that Sect to that Sect of them, is not worth the speaking of. 3. Both these Alterations were made by him (the Archbishop) and all other in that Book, and that other for his Majesty's Coronation, by his Majesty's express Command: And here the Archbishop produc'd both the Books, with the King's Warrant to each of them, and protested, he never mov'd the King directly or indirectly to make this change; and that the King's Hand was set to the Books before they were printed, and his Hand not now procur'd by him. 4. That his Majesty us'd his Wisdom as well as Power in these alterations, may appear by these Reasons for it: 1. It was done for avoiding scandal; and those words in the Litany of H. 8. and E. 6. From the Tyranny of the Bishop of Rome, and all his detestable enormities, were expung'd in Q. Eliz. time for the same Cause. 2. There being but four Religions in the World, Pa-

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ganism, Judaism, Christianity and Turcism; it would be of dangerous consequence to avow, that the Popish Religion is Rebellion. 3. This makes their Religion and Rebellion to be all one, and renders it impossible that any Man should suffer for his Rebellion, and not for his Religion; and yet the State professeth, they put not any man to death for Religion, but for Rebellion and Treason. And King *James* in his Premo-
 Pag. 336.
 nition, denies that any Papist had died for his Conscience, tho this Clause pass'd thro inadvertency in his time. Tenth Innovation, The Prayer for the Navy is left out of the late Fast-book. *Answ.* And good reason, when there was no declar'd Enemy, nor any Navy at Sea; but what consequence is there, that because the Prelates omitted the Prayer for the Navy, they intended to bring in Popery? Perhaps Mr. *Burton* had a mind to befriend Dr. *Bastwick*, and in the Navy bring hither the Whore of *Babylon*, to be ready for his Christening, as he profanely scoffs. [Note, this was occasion'd by a passage in the Doctor's Apology, where he invites Archbishop *Land*, Bishop *Fuxon*, and the Whore of *Babylon*, to be Witnesses to the Baptism of the Child of his Brain.] Eleventh Innovation, Pag. 105;
 The reading of the second Service at the Communion-Table or Altar. *Answ.* 1. Since his own memory this was in use in very many places, but by little and little this antient Custom hath been generally left off; and now the attempting to renew it, is call'd an Innovation. 2. With this the Rubricks of the Common Prayer agree, which appoint, that the Prayers which precede and follow the Communion shall be read there, tho there be no Communion; and Mr. *Burton's* Scoff, that the second Service must be serv'd in as Dainties, favours of Belly and Profanation. Twelfth Innovation, Bowing to the Holy Table or Altar, which they will have to be worshipping of it. *Answ.* 1. God forbid that we should worship any thing but God himself. 2. If to worship God, when we enter into his House or approach his Altar, be an Innovation, it's a very old one. *Moses* did reverence at the Door of the Tabernacle, *Hezekiah* and the People bow'd and worship'd, *David* exhorts us to worship and fall down; and long before *Judaism*, *Bethel* was a place of Re-
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 verence:

13 Car.

Ibid.

Ibid.

Ann. 1637.

verence : That *venite adoremus* was in all the Liturgies, the *Introitus* in the *Latin Church*, as it is now with us, and the Priest may as well leave out the *Venire* as the *Adoremus*. And yet our Government is so moderate (God grant not too loose) that it constrains no man. For his own part, he thought himself bound to worship God with his Body as well as in Soul, and would worship God when he came into his House, tho no Holy Table there ; nay wherever he came to pray : But now-a-days it is Superstition to come with more reverence into a Church, than a Tinker and his Bitch come into an Alehouse. He apply'd himself to the Lords of the Order of the Garter, who do their reverence to God *versus Altare*, as the greatest place of his residence on Earth ; for there 'tis *Hoc est Corpus meum*, in the Pulpit at most but *Hoc est Verbum meum*, and too often 'tis *Verbum Diaboli* : This they are bound to do by their Order ; had it been Idolatry, Queen *Elizabeth* and King *James* would not have practis'd it, no not in those Solemnities ; and he hop'd their Lordships would give a poor Priest leave to do reverence, as their Lordships of the Garter were bound to do by a Constitution of *Henry V. Domino Deo & Altari ejus in modum Ecclesiasticorum*, that is, as lowly and decently as Clergymen us'd to do ; that King not permitting the Knights of that Order to bow towards him or his Seat, till they had first perform'd their Reverence to the Altar. And lest any should say this was the Superstition of that Age, he cited Bishop *Jewel*, who approves both Kneeling and Bowing and Standing up at the Gospel, as commendable Gestures and Tokens of Devotion, so long as they are apply'd to God, and are not superstitious or idolatrous, as these factious Spirits make every thing where God is not serv'd slovenly. Thirteenth Innovation, The placing the Holy Table Altar-wise, at the upper end of the Chancel, North and South, with a Rail before it, which Mr. *Burton* saith is to usher in Popery. *Ans.* This is not Popery, nor is it any Innovation, as appears, 1. By the Practice of the Church of *England*, the Holy Table having stood so in the Royal Chappels and divers Cathedrals ever since the Reformation, and why then should it not stand so in Parish-

Ep Jewel's
Reply to
Harding's
Answer,
Art. 3.
Dic. 29.

P. 4, 5, 105.

Parish-Churches? And how can that be said to usher in Popery, which hath been all along practis'd and allow'd by Queen *Elizabeth*, who banish'd Popery, and by King *James* and his present Majesty, who kept out Popery? For no King's Chappel hath a Prerogative for superstitious Rites. 2. By the Canon of the Church of *England*, viz. the last Injunction of the Queen, That the Holy Table was to be set in the place where the Altar stood; which is plain, to be the upper end of the Quire, North and South: And the present Bishop of *Salisbury*, whom these men cannot accuse as like to advance Popery, in his Letter to the Curate and Churchwardens of a Parish in his Diocese, for settling a difference of this nature, hath these Passages: 1. That by the Injunction of Queen *Elizabeth*, and by *Can. 82.* under King *James*, the Communion-Table should ordinarily stand with the side to the East-wall of the Chancel. 2. 'Tis Ignorance to think the standing there relishes of Popery. The Archbishop said, that before the Reformation in *England*, the Holy Table or Altar ordinarily stood thus in the *Eastern* and *Western* Churches: And the *Lincolnshire* Minister, who comes in to play the Puritan in his Holy Table, Name and Thing, undertaking to prove the contrary, cites no receiv'd Rituals, or Fathers, or Histories of the Church to make it appear it was not so, but only some instances in some particular Churches of Exceptions from the general practice; wherein he hath discover'd either his want of Learning, or that he writ the Book against his Conscience to countenance those Libellers, and to fire both Church and State: Nor is there any danger in the Altar, Name or Thing, for the Altars were not suddenly remov'd in the beginning of the Reformation, tho there was a Law for it, and for setting up Tables: Nor (saith Queen *Elizabeth* in her last Injunction) is the matter of any great moment, save only for Uniformity. Fourteenth and last Innovation, The Prelates have in the Edition of the Articles of Religion, *Anno 1628.* foisted into the beginning of the 20th Article these words, *The Church hath a power to decree Rites and Ceremonies, and authority in Controversies of Faith; which (say they) gives them full power to alter the Doctrine and Discipline of our Church*

13 Car.

May 17,
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Ann. 1637. at a blow, and is a Forgery fit to be severely punish'd: and no such Clause is to be found in the *Latin* or *English* Articles of *E. 6.* or *Q. Eliz.* *Answ.* Such a Forgery had been a heinous Crime: As for the Articles of *E. 6.* they differ much from those under *Q. Eliz.* and are not now binding; but for those in the Queen's time, *viz.* 1562, which are now in force, he said, he had a Copy of them in *English* of the year 1612, another of the year 1605, and another of the year 1593, and one in *Latin* of the year 1563, which was one of the first printed Copies; and in all these is the affirmative Clause for the Church's Power. But not relying on these Copies, he sent to the publick Records in his Office, and hath return'd him by the Officer (a publick Notary) the 20th Article, with this affirmative Clause in it; so far from truth is it, that this affirmative Clause was in no Copy, *English* or *Latin*, till the year 1628. The truth of the matter is this, that tho the Articles with this Clause in them were agreed to and subscrib'd in the year 1562; yet in 1571, some refusing to subscribe them, the Articles were that year printed both in *Latin* and *English*, with this Clause for the Church left out of both; which was no hard matter to effect, considering who then govern'd and rid the Church at their pleasure, and how potent the Ancestors of these Libellers began then to grow: And yet notwithstanding this stir about Subscription in 1571, these Articles with this Clause in them, were in that very year of contradiction, subscrib'd by all the Lower House of Convocation; *Alexander Nowell* Dean of *St. Pauls*, who had been Prolocutor in the said year 1562, subscribing among the rest.

Some other Innovations are charg'd upon the Prelates in matters of Doctrine, which should be answer'd *justo volumine* at large: But Mr. *Burton's* Charge upon the Prelates he crav'd leave to add, *viz.*

Pag. 175. That the Censures formerly laid upon Malefactors, are now put on God's Ministers for their Virtue and Piety; whereas the Virtue and Piety those Persons have been punish'd for in the High Commission, is their preaching Schism and Sedition, many of their Sermons being as bad as their Libels: And yet Mr. *Burton* saith; he never dream'd that Impiety and Impudence

prudence in a Christian State, and under such a gracious Prince, durst ever thus publicly have call'd him in question; such is the boldness of the Man. He said, he would not answer these Men with Levities or Revilings, but should speak and write what became a Priest of God; neither would he give way to Grief or Passion, or faint or start aside for the Reproaches of such Persons; and our Saviour bids men, *Fear them not*. He gave their Lordships thanks for their just and honourable Censure of these Men, their unanimous Dislike of them, and Defence of the Church; but the Business somewhat reflecting upon himself, he forbore to censure them, but left them to God's Mercy and the King's Justice. After which Mr. Pryn petition'd the Court to moderate his Sentence, but the Archbishop declar'd, it was his Majesty's express Command that it should be executed.

30 Junii, The said three Prisoners were brought to the New Palace yard at Westminster, to suffer according to their Sentence; Dr. Bastwick spake first, and (among other things) said, had he a 1000 Lives he would give them all up for this Cause. Mr. Pryn repeated a great part of the Court's Proceedings, who had taken the Cause *pro confesso*, tho he had put in two Answers, the one sign'd by his Counsel, the other by himself: He cited the two Statutes against libelling the Queen, by that of 1 and 2 of Queen Mary, c. 3. the Offender being lawfully convicted by Verdict, his own Confession, or by the Oaths of two sufficient Witnesses brought face to face at his Trial, should have both his ears cut off, unless he paid 100 l. within one month, and should suffer three months Imprisonment. By that of 23 Eliz. c. 2. he might redeem his ears for 200 l. but should have two months for payment, and suffer six months Imprisonment. He shew'd the disparity between the times of Queen Mary and Queen Elizabeth, and the times then (of King Charles) and how far more dangerous it was now to write against a Bishop or two, than against a King or Queen; there at the most there was but six months imprisonment in ordinary Prisons, and the Delinquent might redeem his ears for 200 l. and had two months time for payment, but no Fine; here they are fin'd 5000 l. a

13 Car.

Sentence
against
Pryn, Bast-
wick and
Burton
executed.

Ann. 1637.

piece, to be perpetually imprison'd in the remotest Castles, where no Friends must be permitted to see them, and to lose their ears without redemption: There no stigmatizing; here he must be branded on both Cheeks: There a legal Conviction was requisite, here all to be taken *pro confesso*, without Verdict, Confession, or so much as one Witness. He challeng'd the Prelates to a fair dispute, and he would maintain against them, that their Prelatical Jurisdiction over Presbyters, and their Calling is not *Jure Divino*; as he would maintain also against all the Lawyers, that the issuing of Writs and Process in the Prelates own names, and under their own Seals, is against Law, and entrenches on the King's Prerogative and the Subject's Liberty. He said, if the People but knew into what times they were cast, and what changes of Laws, Religion and Ceremonies have been made of late by one man, they would look about them: They might see that no Degree or Profession was exempted from the Prelate's malice; here is a Divine for the Soul, a Physician for the Body, and a Lawyer for the Estate, and the next to be censur'd in Starchamber is like to be a Bishop. If all the Martyrs that suffer'd in Queen Mary's days are call'd schismatical Hereticks, factious Fellows, Traitors and Rebels, condemn'd by Holy Church, what can we look for? yet so they are stil'd by Dr. Pocklington in his *Altare Christianum*, licens'd by this Archbishop's own Chaplain, pag. 92. The Archbishop of Canterbury being inform'd by his Spies what Mr. Pryn said, mov'd the Lords then sitting in the Starchamber, that he might be gagg'd, and have some further Censure to be presently executed on him; but that Motion did not succeed. Mr. Burton (who had been degraded by the High Commission Court) spake much while in the Pillory to the People: The Executioner cut off his ears deep and close, in a cruel manner, with much effusion of Blood, an Artery being cut, as there was likewise of Dr. Bastwick; then Mr. Pryn's Cheeks were scar'd with an Iron made exceeding hot; which done, the Executioner cut off one of his Ears, and a piece of his Cheek with it; then hacking the other Ear almost off, he left it hanging, and went down; but being call'd up again, he cut it quite off.

Lincoln.

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The Starchamber having order'd the three Prisoners to be convey'd to the said three remote Castles, and that during their imprisonment there they should not be admitted to the use of Pen, Ink or Paper, or of any Book but the Bible, Common-Prayer Book, and other Canonical Books of Devotion; they were convey'd thither accordingly: the Wives of *Bastwick* and *Burton* being hardly permitted to speak with their Husbands by the way. The Chamber in *Lanceston* Castle, where Dr. *Bastwick* was lodg'd, was so ruinous, that every small blast of wind threaten'd to shatter it down upon his head; and the Lord Chief Justice *Finch* being inform'd thereof, said, That the Doctor by his Faith and Prayers would hold it up from falling. Mr. *Pryn* in his passage to *Carnarvan*, resting at *Coventry* on the Lord's Day, and coming twice to Church there, and some Friends visiting him at his Inn (among whom was the Mayor's Wife, not himself) the Archbishop caus'd a Messenger to be sent down to bring up the Mayor, and about six more to the Council-Table, where after a fortnight's attendance they were refer'd to the Archbishop, and by him to the Attorney General, who finding nothing against them, they were dismiss'd with a check, and the expence of two or 300 l. *viis & modis*. Mr. *Pryn* going forwards towards *Chester*, one Mr. *Calvin Brewen* casually overtaking his Conductors, and being inform'd who he was, rid into *Chester* with them; and afterwards, with the leave of his Conductors, who said they had no Warrant to debar his Friends from him, Mr. *Brewen* and some others visited him at his Inn, and the next day went with him into the City, to help him buy some Bedding and Furniture for his Chamber at *Carnarvan*: And when he went from *Chester*, none of his Conductors knowing the way, three or four of his Friends conducted them over the Washes, which are dangerous, and at parting bestow'd a Glass of Wine and some cold Meat upon them. The Bishop of *Chester* takes offence at this, and in the first place issues out an Order for every Lecturer in the City, and all other Preachers in their next Lecture or Sermon, to declare their detestation of the Offences for which these three schismatical Persons,

13 Car.
They are convey'd to the three remote Castles.

The troubles of the Coventry and Chester Men for visiting Mr. Pryn.

Ann. 1627.

were censur'd: Whereupon some of the Ministers there and elsewhere the next Sunday rail'd bitterly at them, and at the Visitors of Mr. Pryn; calling them Schismaticks, Rebels, Traitors, factious and seditious Persons, worse than any Priests or Jesuits, Rogues, Rascals, Witches, and comparing them to *Corah*, *Dathan* and *Abiram*. Then the Bishop and his Chancellor (by the direction of *Canterbury*, who was acquainted with the business) sent up the Names of *Brewen* and those others who had visited *Pryn* to the Commissioners at *York*, who sent out their Pursivants to apprehend them. At *York* they were find, some 500*l.* others 300*l.* and others 250*l.* a piece, imprison'd and forc'd to enter into a Bond of 300*l.* each, to make such acknowledgment in the Cathedral Church of *Chester*, and in the Town-hall there, before the Mayor, Aldermen and Citizens, as the Commissioners should prescribe them. This Acknowledgment Mr. *Brewen* and all the rest made, except *Lee* and *Golbourne*, whose Bonds were estreated into the Exchequer: The Form was much alike, except that particular in Mr. *Brewen's*, about the bringing him into the City; that prescribed to Mr. *Brewen* was to this effect, He was Sunday-morning next in the Cathedral Church of *Chester* (in his accustom'd Apparel) immediately before the Sermon to stand against the Pulpit, and recite after the Minister, *That he had countenanc'd, comforted and abett'd one William Pryn, attended on him to bring him into that City, and at his going from thence, whereby he had audaciously and wickedly affronted his Majesty and the State, and brought a scandal upon that City, whereof he stood legally and justly convicted and censur'd for the same; that he declar'd his hearty Sorrow, and ask'd Forgiveness of God, the Church, the King and the State; and that he may obtain Grace for the time to come, and Mercy for what was past, he desir'd them all to say with him the Lord's Prayer, Our Father, &c.* The like Acknowledgment he made at the Town-hall; and there being some Pictures made of Mr. *Pryn* at *Chester*, the Pictures were defac'd, and the very Frames order'd by the High Commissioners at *York* to be burnt, which was done accordingly.

27 Aug.

27 Aug. It was order'd by his Majesty, with the advice of his Privy Council, that Dr. *Bastwick* should be remov'd to the Castle or Fort of the Isles of *Silly*, Mr. *Burton* to the Castle of the Isle of *Guernsey*, and Mr. *Pryn* to which of the two Castles of the Isle of *Jersey* the Governor should think fit; that none be admitted to have conference with them, or to have access to them, but whom the Captains of the said Castles or their Deputies should appoint; they not to be allow'd Pen, Paper or Ink, nor any Books, but the Bible, Common-Prayer Book, and other Books of Devotion, consonant to the Doctrine and Discipline of the Church of *England*; no Letters or Writings to be brought them, but what shall be open'd, nor any to be sent from them; that the Wives of *Bastwick* and *Burton* should not land or abide in any of the said Islands, and if they did, they should be detain'd in Prison till further Order from the Board; and the Conductors of the said three Prisoners, either by Sea or Land, to suffer none but themselves to speak to them in their passage. Accordingly they were sent to the said three Islands, where they remain'd till the beginning of the Long Parliament 1641.

In the beginning of this year the Prince Elector *Palatine*, with his Brother Prince *Rupert*, departed from *England*, and having rais'd a small Army in *Holland*, advanc'd into *Westphalia*; but *Hatzfeld* the Imperial General joining Battel with him, the Imperialists had the Victory, kill'd 2000 on the place, and took Prince *Rupert* and the Lord *Craven* Prisoners, the Elector escaping into *Holland*.

The Report of this Censure of *Pryn*, *Bastwick* and *Burton*, flew quickly into *Scotland*, where they fear'd a Starchamber would be erected as well as a High Commission already, and the bringing in the Service-book increas'd the ferment. The Prelacy in *Scotland* was once almost ruin'd, but in the times of King *James* and King *Charles* crept up again, not without the aversion of the Nobility, Gentry, and greater part of the Ministry: of 14 *Scottish* Bishops nine were Privy Counsellors, the Archbishop of *St. Andrews* Lord Chancellor, and many of the other had State-Employments and gainful Offices, and all the Ecclesiastical in their

13 Car.

The three Prisoners remov'd to Silly, Guernsey and Jersey.

Pr. Elector Palatine overthrow'n.

Beginning of the Com-motions in Scotland.

Ann. 1637.

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A Liturgy  
introduc'd.King's  
Reasons  
for it.

their own power: They had no National Assembly since the Synod of *Perth*, 1618. a High Commission was erected, and a Book of Canons set forth by the King's Authority, to which all were to submit; and by the same Authority a Liturgy was impos'd, for which his Majesty publish'd these Reasons: That his late Father at his first coming into *England*, comparing the Decency and Uniformity of God's Worship here, with the Deformity of that in *Scotland*, consulted with the Bishops and others, how an Unity in the publick Service of the Church might be effected: But this receiv'd some Opposition, till in the year 1616, in a General Assembly at *Aberdeen*, the King by his Commissioners there made the necessity of a publick Liturgy apparent. And a Book, in pursuance of an Act of that Assembly, being fram'd, the Archbishop of *St. Andrews* sent it up to his Royal Father, who had it revis'd by several in *England*; and after his and their Additions and Alterations, he sent it back to be recommended to the Church of *Scotland*, being the same in substance with that now recommended to them; but his Father died before it was received. That that which mov'd his Father to hasten that Liturgy, and an High Commission Court, was to curb the Puritans in *Scotland*, who would meddle with State-matters in their Pulpits: That his now Majesty had caus'd the same Book to be remitted to him; and after serious consultation with divers of the Bishops and Clergy of that Kingdom here present, Letters and Instructions to the rest at home, and Remonstrances of the Reasons of some Alterations, his Majesty was content it should come out as now printed, not differing in substance from that in *England*, lest it be said we have two Liturgies; nor yet altogether the same, that it may be reputed a Book of that Church's composing, and establish'd by his Majesty as King of *Scotland*: And that together with the Book, his Majesty had sent Instructions to the Bishops of that Kingdom to proceed with Moderation, and dispense with such things in their Book, which they should find Persons not well perswaded of, yet willing to be inform'd.

This Service-book was first appointed by Proclamation to be read in all Churches on *Easter-day*, 1637. but after-



wards defer'd till the 23<sup>d</sup> of July, and to be read only in the Churches of *Edinburgh* and parts adjacent. Accordingly it was then begun to be read in *Edinburgh* in *St. Giles's Church* (commonly call'd the *Great Church*) many of the Council, both the Archbishops, divers other Bishops, the Lords of the Session, the Magistrates of *Edinburgh*, and a great Auditory being present: No sooner had the Dean of *Edinburgh* open'd the Book, but there were among the meaner sort (especially the Women) clapping of hands, and hideous Execrations and Outcries. The Bishop of *Edinburgh* (who was to preach) went into the Pulpit, thinking to appease the Tumult, and presently a Stool was thrown at his head: The Provost and Bayliffs at length thrust out of the Church those that made the Tumult, and shut the Doors against them; then the Dean read the Service. But such were the Outcries, rapping at the Doors, and throwing in of Stones at the Windows, crying, *A Pape, a Pape, Antichrist, pull him down*, that the Bayliffs were forc'd to come again to appease their Fury. Service and Sermon ended, the Bishop of *Edinburgh* repairing home, was near trodden to death, but rescu'd by some who observ'd his danger. The same morning the Service being begun to be read by the Bishop Elect of *Argile* in the *Grayfriars Church*, he was by Exclamations and Threatnings forc'd to give over after reading the Confession and Absolution. In the afternoon, the Service was read in *St. Giles* and some other Churches; but after Evening Prayer, the Earl of *Roxborough*, Lord Privy Seal, returning home with the Bishop of *Edinburgh* in his Coach, the Coach and Coachman were so pelted with Stones, that they had been all in danger of their Lives, had not the Earl's Footmen kept off the Croud. None of Quality had yet appear'd in these Disorders, and the Council the next day by Proclamation, discharg'd all tumultuous Meetings on pain of death. The Magistrates of *Edinburgh*, who declar'd their detestation of the Tumult, were commanded by the Council to enquire out the Authors and Abettors, and to make their Report thereof, which they promis'd to do: The Ministers of the City being unwilling to read the Service-book, without security

13 Car.  
Tumults in  
Edinburg  
on reading  
the Ser-  
vice-book.

A Stool  
thrown at  
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Proclama-  
tion against  
the Tumult.

Ann. 1637.

Ministers  
require the  
Council's  
Protection.

ABp of  
Canterbu-  
ry's Letter  
to the E. of  
Traquair.

curity given for the safety of their Persons, an Act of Council was drawn up and assented to by the City-Magistrates, that if they would read the Service-book, they would take order for their security and for their settled maintenance.

How displeasing this Uproar at *Edinburgh* was to the Court of *England*, partly appears by a Letter from the Archbishop of *Canterbury* to the Earl of *Traquair*, dated *Aug. 7.* to this effect: That the Church of *Scotland*, as well as elsewhere, hath been overborn by Violence, both in point of Maintenance and Jurisdiction; but to recover this, she must not proceed as she hath been proceeded against, but by a constant remper make the World see she had the wrong. And seeing there is a Law to make good that which is ill done, such a restitution must be sought for as will stand with the Law, by a favourable exposition of it, until the State see cause to abolish the Law. His Majesty takes it very ill, that the business about the Service-book had been so weakly carried, and expects that the Council there would establish the Liturgy peaceably; for his Majesty knoweth the Clergy had not power enough to go thorow with it, and is dissatisfy'd that the advice of the Council was not ask'd: That the publishing (a week before) when it should be read in *Edinburgh*, was to give time to the ill-affected to premeditate what to do: That the Clergy ought to have given notice to those in Authority, that they might have been there to countenance the Service; and he is persuaded, that if the Marriage of his Lordship's Kinsman had not carried him out of the City that day, things would not have been so bad. Nor was it the best thing the Bishops did, to send their Letters to his Majesty apart, and not jointly with the Council, that so his Majesty might have had their Advices together, how to punish the Offenders, and prevent the like Disorders; and 'tis strange they should be to seek who should read the Service. But his Majesty, by the Bishops Messenger, hath sent full direction to them and the Council what to do therein: That the weakest part of all was the interdicting all Divine Service till his Majesty's pleasure was known, against which his Lordship spake very worthily at the Council, *July 24.* for



for it was in effect to disclaim the work, or to give way to the insolence of the baser multitude; and the Bishops disclaiming the Service-book, as any Act of theirs, but as it was his Majesty's Command, was most unworthy: Certainly they were ill advis'd when they spake thus at the Council. Thus the Archbishop.

13 Car.

The Lords of the Council also spar'd not to lay the greatest blame of this disorder upon the Bishops, as appears by a Letter from the Earl of Traquair to the Marquis of Hamilton, dated the same 7th of Aug. to this effect: That the Council there, at the appearance of the Troubles and Stirs like to be upon the urging this new Service-book, durst no longer forbear to acquaint his Majesty therewith, and to represent to him both their Fears and Opinions, for pacifying the present Stir, and establishing the Service-book. All he shall add is, to intreat his Lordship to recommend to his Majesty, the calling to him some of the wisest and calmest of the Clergy of Scotland, for some of the leading men among them are violent and forward, without ground or judgment; and their rash and foolish Expressions, and sometimes Attempts, have bred a fear and jealousy in the hearts of many. They complain that former Ages have taken from them their Rents, rob'd them of their Power and Jurisdiction, and brought into the Worship of God some things that require Reformation: But he doth not think it for God's Service or the King's to rectify what is amiss by the same ways it was brought in, viz. by Tumults and Disorders. He assures himself, his Majesty will give his faithful Subjects leave to inform him of the truth, and that he will direct what is just and right; and with the same assurance he promises him Obedience: But this business is by the Folly and Misgovernment of some of the Clergy come to that height, that the like hath not been seen a long time in that Kingdom.

*The Earl's Letter to Marq. Hamilton.*

Concerning the carriage of the Bishops and Clergy of Scotland before these Tumults happen'd, a learned and moderate Person of that Nation hath thus written: The People of Scotland had drank in a deep prejudice against every thing that savour'd of Popery; the Bishops us'd all means to lessen it both in Sermons and Discourses, mollifying their Opinions and commend-

*Bp Burnet's Account of the Scottish Tumults.*

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Ann. 1637.

ing their Persons, with some Reflections on the Reformers, which heighten'd the Peoples Rage. Of *Arminius's* Tenets about Predestination and Grace, condemn'd in the Synod at *Dort*, and generally ill reported of in the Reform'd Churches, especially in *Scotland*, the Bishops there and their Adherents undertook the Defence; and beat down the Morality of the Lord's Day, which is reckon'd an Article of Faith in *Scotland*, and by their Practices express'd their Neglect of that day. They were likewise avow'd Zealots for the Liturgy and Ceremonies of *England*, which by the Zealots in *Scotland* is reckon'd Popery. Upon these accounts they lost all their esteem with the People: And the Nobility (who were then very considerable) were offended with them, for having more interest with the King than themselves; nine of them were Privy Counsellors, divers of them of the Exchequer, *Spottiswood* Archbishop of *St. Andrews* was Chancellor, and *Maxwell* Bishop of *Ross* endeavour'd to supplant the Earl of *Traquair* then Treasurer, which help'd forward their ruin; and they began to pretend to the Tithes and Improvements, and had gotten one *Learmouth* presented Abbot of *Lindores*, designing to get that state of Abbots restor'd, and the College of Justice, according to the first Institution, to consist one half of Churchmen: This could not but sensibly touch the Nobility, who were large sharers in the Church's Patrimony; they were hateful to the Ministry for their insupportable Pride, and the Simoniackal Pactions made with their Servants; they impos'd a new Oath upon the Ministers to obey the Articles of *Perth*, and submit to the Liturgy and Canons; their Inroads upon their Jurisdiction, their Rigour against Puritans, their meddling in secular Affairs, and leaving their Diocesses to wait on the Court and Council, made them the Object of all mens hate. But that which heighten'd all to a Crisis, was their advising the King to introduce some Innovations in the Church, for of General Assemblies they thought no more. And the neglect the King shew'd of those who oppos'd the Act of Parliament in 1633, for the King to appoint what Habits he pleas'd to the Clergy, stuck deep in the Peoples Hearts, the Bishops bearing all the blame: A Liturgy likewise was

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fram'd for *Scotland*, different from the *English* only in some Alterations, which render'd it less satisfactory; and another Book of Canons which totally varied from their former Constitutions: and not satisfy'd with the general High Commission Court, they procur'd Warrants from the King for setting up such Courts in their several Diocesses, consisting of Persons of their own nomination, to punish Offenders, which was put in practice only by the Bishop of *Galloway*, a fiery and passionate Man, and was cried out upon as a Bondage the Nation was not able to bear.

The Bayliffs of *Edinburgh* seemingly troubled at the Tumult on *July 23.* writ a Letter to the Archbishop of *Canterbury*, dated *19. Aug.* wherein they declar'd how much they regretted that Tumult in their Churches; that the Council will testify their Innocence, and how they have concur'd with their Ordinary and Ministry for settling of the Service-book; and they should not be wanting therein, but approve themselves obedient and loyal Subjects in all things, wherein they may contribute to his Majesty's Service, which they pray his Grace to assure him of, whatsoever others may suggest; for which favour his Grace should find them ready to express their Thankfulness.

*Letter from the Bayliffs of Edinb. to the ABp of Cant. concerning the Tumult.*

Both Ministers and People furiously opposing the Service-book, a Petition was presented to the Privy Council by three Ministers, *Alexander Henderson, John Hamilton* and *James Bruce*, setting forth, that they being requir'd by the Moderator of their Presbytery to receive two Copies of the new Book of Common-Prayer, declar'd themselves willing to receive the said Book, first to read it and know what was contain'd therein, they not being bound to blind Obedience in matters of God's Worship; but this was denied, and the Books taken out of their hands, and now as if they had refus'd them, they are charg'd with Letters of Horning, decreed by their Lordships, to provide each of them two of the Books for the use of their Paroches, which Charge they pray may be suspended for these Reasons: 1. The Book is not warranted by the Authority of the General Assembly, which is the Representative Kirk of *Scotland*, nor by any Act of Parliament. 2. The Liberty of the Kirk and Form of Worship

*Petition about the Service-book.*



*Ann. 1637.* Worship practis'd ever since the Reformation, have been so warranted. 3. The Kirk of Scotland is free and independent, and her Pastors best able to discern and direct what is most for the Peoples Good. 4. Their Lordships know what Disputes and Divisions have been in this Kirk about some of the Ceremonies in that Book, which they are ready to shew do depart from the Reformation, and in points material do come near the Kirk of Rome, which for Heresy, Idolatry, Tyranny and Wickedness, is as Antichristian as heretofore. 5. The People had been otherwise taught by them and their Predecessors, and 'tis likely will be unwilling to comply with this Change.

*Answer.*

To which this short Answer was given the Petitioners by the Bishop of Rosse; That by their Objections and Exceptions, it appears they are not ignorant of the Contents of the Book, as they pretend, but that they have abus'd it; that the Bishops, not the General Assembly, have authority to govern the Church, and are the Representative Church of that Kingdom; that the Service-book is one of the most Orthodox and perfect Liturgies in the Christian Church, and had nothing in it superstitious or idolatrous.

*Words in the English Liturgy at the Sacrament omitted in the Scotch.*

That in the new Service-book which most startled the Scots, was the omission at the delivery of the Bread in the Sacrament of these words, *And take and eat this, in remembrance that Christ died for thee, and feed on him in thine Heart by Faith, with Thanksgiving;* and the omission at the delivery of the Wine, of these words, *And drink this, in remembrance that Christ's Blood was shed for thee, and be thankful:* altho these Passages are both in the English Liturgy, and do expressly take away all opinion of any Transubstantiation, or corporeal eating of Christ's Body; or drinking his Blood in the Sacrament; so that there was nothing left at the delivery of the Bread and Wine, but the preceding words in the English Liturgy, *The Body of our Lord Jesus Christ, &c.* and, *The Blood of our Lord Jesus Christ, &c.* which the aforesaid words expung'd out of the Scotch Liturgy, did qualify and explain: But thus standing alone in this new Liturgy, they are the very same words that are in the Roman Missal, without any other addition than *Amen*, to be pronounc'd



nounc'd by the Receiver: What the meaning hereof was, appears not; but the Scots apprehended it the Prologue to the bringing in among them a principal point of Popery, to wit, the Doctrine of Transubstantiation.

Concerning the late Tumults in Scotland about the Service-book, the Archbishop of Canterbury, Septemb. 4. writ to the Archbishop of St. Andrews to this effect: That few Men will believe there was any fault in him (*St. Andrews*) or his Brethren; but that which was thought here in England was, that tho they advis'd among themselves, yet the Body of the Council was not acquainted with their Determinations, nor their Advice taken or Power call'd in for Assistance till too late; and after the thing done, they consulted and sent up to the King apart, without the Lay-lords, whom they could not have engag'd too far. He believes, as his Grace doth, that the fault is most in their Ministers, but then they should have been dealt with and made pliable beforehand; if he thinks a sharper course with them would do more good, his Majesty leaves it to him to do what is fit against both Mr. Ramsey and others; he saith he is sorry for Mr. Rollock.

ABp of  
Cant. his  
Letter to  
ABp of St.  
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In another Letter from the Archbishop of Canterbury And to the to the Earl of Traquair, dated Septemb. 11. the Archbishop writes thus: That he could not have believ'd it possible that way should have been given to an Interdiction, after his Lordship had so strongly oppos'd it; for it must needs be foreseen what an encouragement it would be to the Puritan Party. He wonders not that the Lords and others, ill-affected to the Liturgy, were for it: But it may well be a wonder, that the Bishop of Ross should give the Advice, and the Archbishop of St. Andrews second it with such Stiffness. He did not think so many other Bishops (as well as the Bishop of Ross) would have gone into their Diocesses, and left the Business, which they should have been careful to uphold, especially Ross, whose hand hath been so much in it. His Majesty takes it kindly of the Bishops of Edinburgh, Galloway and Dunblane, that they stay and attend the Work, and commands him to give his Lordship Thanks for staying with them, and keeping them in heart; and his Majesty takes it well

And to the  
Earl of  
Traquair.

Ann. 1627. of his Lordship, that he hath dealt with the City for Maintenance for them that read the Liturgy, and hath given them his Thanks for it: That he never heard till now that any of the *Edinburgh* Ministers (save *Ramsay* and *Rollock*) stuck at the Liturgy; or that some of the Bishops, as well as *Ramsay*, would have somewhat amended; but if that should be yielded unto, the King (who carefully look'd over and approv'd every word in this Liturgy) would be dishonour'd, and the Service it self destroy'd, while one man would have that kept in, which another would have struck out: That whereas his Lordship writes, that some Bishops say, if their Opinions had been crav'd, they would have advis'd the amendment of something, why did not the Archbishop of *St. Andrews*, and they whom the King trusted, acquaint every Bishop with it? 'Tis objected, that there is more in that Liturgy than in the *English*; why did they not then accept of the *English* Liturgy without more ado, but refuse it? He saith his Lordship would do him a favour to get the Bishop of *Galloway* to set down briefly the Exceptions taken by *Ramsay*, *Rollock* and the rest, against the Liturgy; and he would know the Bishops who would have amended something, and what that is they would have amended.

Another  
Letter  
from the  
Bayliffs of  
Edinburg  
to the ABp  
of Cant.

There being some other disturbances afterwards by the Confluence of People, the Bayliffs of *Edinburgh* writ a second Letter to the Arch-Bp of *Canterbury*, dated Sept. 26. acquainting him with the innumerable concourse of People from all parts of the Kingdom, both of Clergy and Laity, the two last Council Days, with their Supplications; they assure him they had not combin'd with them or countenanc'd them; and they beg his Intercession to keep them still in his Majesty's Favour.

Concourse  
of People  
to Edinb.

About the beginning of *Octob.* Harvest being ended, the Concourse of the Nobility, Gentry, Ministers and Burgesses from all parts was so great at *Edinburgh*, and after such a tumultuous manner, that a present Insurrection was fear'd, which forc'd the Council on the 17th of *Octob.* to publish three Proclamations; the one signifying his Majesty's Warrant and Direction for dissolving the Meeting of the Council that day, so far as concern'd matters of the Church, and that

Three Pro-  
clamations.

every



every one who hath no just cause of stay do repair to their own Dwellings; that the Council do accordingly dissolve their Meeting that day as to Church-matters, and command every one that came thither to attend that business, to repair home within 24 hours (except such as shall make known to them the just cause of their stay) upon pain of Horning, and being denounc'd Rebels, and the Escheat of all their movable Goods to his Majesty's use. Another Proclamation was for removing the Council and Session (which is in nature of our Term) from *Edinburgh* to *Linlithgow*, and the next after the ordinary Vacation to *Dundee*, there to remain during his Majesty's pleasure. The third was for calling in a Book, entitul'd, *A Dispute against the English Popish Ceremonies, obtruded upon the Kirk of Scotland*, commanding such as have the Book, to bring the same to the Privy Council within a limited time to be publickly burnt, and signifying that the Persons, with whom the Book shall be found after that time, shall have the same punishment as the Author may be found to deserve.

Upon the publishing of these Proclamations, a new *New Tumult* happen'd in *Edinburgh*, *Octob. 18.* against the *mult at Edinburgh* Earl of *Traquair*, and some of the Bishops, whom the People went about to have kill'd: The Bishop of *Salisbury* passing along to the Council-house, was surrounded and follow'd with Cursing and Exclamations to the Council-house Door, where another Multitude, who waited for him, would have pull'd him in pieces, had not *Francis Steward* gotten him into the Council-house; they continuing to demand his Person, and threatening him with Death. The Earls of *Traquair* and *Wigton* coming to his assistance; when they got thither, found themselves in little better Case than the Bishop, the Peoples Fury increasing. The Lords thus beset, sent to the Lord Provost, Bayliffs and Council of *Edinburgh* (who were then assembled) for assistance; who return'd answer, they were in a worse Condition themselves, that their Council-house was beset without and throng'd within with their own Citizens, who threaten'd to kill them, unless they would presently subscribe to a Paper, which they were forc'd to do for fear of their Lives. This Paper



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consisted of three Particulars: 1. That they should join with them in opposing and petitioning against the Service-book. 2. And restore *Ramsay* and *Rollock* (who were silenc'd) to their Places and Pulpits. 3. And restore to his place *Henderson* a silenc'd Reader. Hereupon the said two Earls with their Followers went to the Town Council-House, to appease the Sedition; they found the Magistrates and Council there much compos'd and perplex'd; and understanding that the divulging of the Paper so subscrib'd, and proclaiming it thro all their turbulent Troops and at the *Cross*, had a little asswag'd the Peoples Fury, they consulted about the Safety of the Bishop of *Galloway*; and it was resolv'd the Lords should return to their Council-house where they had left the Bishop besieg'd, and stay there till the Magistrates try'd if they could calm the Commotion. The Lords were no sooner in the Streets, but by the Peoples Violence they were forc'd to retire, until two of the Bayliffs, attended by their Sergeants, Officers and others, made some way for them; but in the *Great-street* the Multitude ran enragedly upon them with horrible Outcries, to this effect, That God would defend the Defenders of his Cause, and confound the Service-book, and all the Maintainers of it. The Lords when they had in vain us'd their Authority, and commanded the People in the King's name to retire to their Houses, were glad to betake themselves to Intreaties and Persuasions; but the Peoples Fury increas'd, the Lord Treasurer was thrown down, his Hat, Cloke and white Staff pull'd from him, and he himself had been trod to death, had not some about him presently got him upon his Feet, and without Hat or Cloke into the Council-house. Soon after the Provost and Bayliffs coming to them, and acquainting them that they had us'd their uttermost Power and Persuasions, but could find no Obedience; the Lords sent to some of the Nobility, Gentry and others, who were assembled for assisting the Petition against the Service-book, to try what help they could have from them in this extreme danger. They came to the Council-house, declar'd how dissatisfy'd they were with the present Mutiny, offer'd their Persons and Power for securing them from Violence, which the Lords

Lords accepting of, and being guarded by the others, the Lord Treasurer got to *Holyrood-house*, and the Bishop of *Galloway* to his Lodging; but the Lord Provost was set upon as he enter'd his House, the People crowded into his Yard, railing and throwing Stones at his Windows, till his Servant discharging a Piece with only Powder in it, they retir'd for fear. And the Council meeting that same Afternoon, issu'd out a Proclamation, forbidding all such gatherings together of the People in *Edinburgh*, and all private Meetings tending to Tumult, and commanding the Inhabitants to contain themselves in Peace, and to keep their Houses, except when their lawful Business call'd them forth. But notwithstanding this Proclamation, the People of *Edinburgh* sent their Agents to the Council, requiring their Ministers and Reader might be restor'd, and that they might have some assurance of what was lately promis'd them by their Magistrates.

*Proclamation for keeping the Peace.*

After these Tumults there were presented two Petitions, one from the Men, Women, Children and Servants within *Edinburgh* to the Lord Chancellor, to this effect: That they being urg'd with the Service-book, so different from the publick Worship universally receiv'd in that Kingdom, for the maintenance whereof such of them as are Burgesses were sworn at their Admission, their Consciences will not suffer them to embrace this urg'd Service; that they have wink'd at some former Alterations, hoping no more Innovations would follow; but now they are like to be constrain'd to a Form of Worship, never agitated or receiv'd by General Assembly or Parliament; that this is not a noise of simple Women, but concerns the preservation of true Religion, which is dearer to them than Estate or Life: They pray they may have time to advise, and that a way may be found out to deliver them from the fear of this and all other Innovations. The other Petition was from the Noblemen, Barons, Ministers, Burgesses and Commons, shewing that they attending for an Answer to their Supplications against the Service-book, were to their great surprize charg'd to depart the Town within twenty four hours under pain of Rebellion; that thereby they are constrain'd to remonstrate, that the Archbishops and Bishops of

*Two Petitions against the Service-book, &c.*



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that Realm, who are entrusted by his Majesty with the Government of the Church there, have impos'd upon them two Books, one of Common Prayer, the other of Canons: In that of Common Prayer are sown the Seeds of Superstition, Idolatry and false Doctrine; and the Service-book of *England* is abus'd, especially in the Communion, by Additions, Subtractions, interchanging of Words and Sentences, falsifying of Titles, and misplacing of Collects, to make it like the *Romish* Mass, and for reverling the intention of the Reformers of Religion in *England*. In the Book of Canons they have ordain'd, that whosoever shall affirm the Form of Worship in the Common Prayer to contain any thing repugnant to the Scriptures, or to be corrupt, superstitious or unlawful, shall be excommunicated, and not restor'd, but by the Bishop or Archbishop, upon his publick Repentance; besides 100 Canons more, many of them tending to the reviving of abolish'd Superstitions and Errors, the Overthrow of their Church-Discipline establish'd by Parliament, opening a Door to further Inventions, stopping the suppression of Error and Superstition; and where no Penalty is express'd, leaving it arbitrary to the Bishop; which Books were never seen or allow'd in any General Assembly, but are impos'd contrary to Law; and yet the aforelaid Prelates have gotten his Majesty's Hand and Letters Patents thereunto, and have urg'd them by their Injunctions, and by Proclamation and Charge of Horning; so that they must be ruin'd in their Estates, or break their Covenant with God. That all this is contrary to the true Religion, ratify'd by his Majesty in Parliament, 1633. And the said Prelates have abus'd their Credit with him, thus to ensnare his Subjects, rend their Church, undermine Religion, move Discontent between him and his Subjects, and Discord between Subject and Subject. They therefore pray that this matter may be try'd by the Laws, and the Prelates not sit as Judges until the decision thereof; or that their Lordships would represent their Grievances to his Majesty, so that they may have Redress, and enjoy their Religion as Reform'd in that Kingdom. These Petitions the Council sent to the King, who finding no disavowing of the late Tumults, delay'd to answer



answer them, but commanded the Council to issue out the Proclamation following, dated *Decemb. 7.* That his Majesty having seen the Petition concerning the Service-book, he would have given a Gracious Answer thereunto; but understanding what tumultuous and barbarous Insolencies had been committed in *Edinburgh* on the 18th of *Octob.* last, by abusing his Counsellors and Officers of State, and others bearing Authority there, he hath in a just resentment of that Indignity, delay'd the giving such a satisfactory Answer as might be expected; but yet to remove all unnecessary Doubts and Fears, his Majesty declareth, that as he abhorreth all Superstition of Popery, so he will be careful nothing be allow'd within his Dominions, but what shall tend to the advancement of true Religion, as then profess'd in *Scotland*, and that nothing was intended to be done therein against the Laws of that Kingdom.

*13. Car.*  
Declarati-  
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abhors Po-  
pery.

To return to *England*: At this time it was endeavour'd to block up the passage of those voluntary Exiles, that were willing to go to another part of the World, to avoid Disturbances here from the Ecclesiastical Courts: And a Proclamation, dated *April 30.* was set forth by his Majesty to this purpose, viz. That whereas great numbers of his Subjects were yearly transported into those parts of *America*, which were granted by Patent to several Persons, some with their Families and whole Estates, among whom were many whose end was to live without the reach of Authority; the King commanded his Officers of the Ports, not to suffer any Subsidy-men or of their Value to pass to any of those Plantations, without a Licence from the Commissioners for Plantations; nor any under that degree, without a Certificate from two Justices of Peace where they liv'd, that they had taken the Oaths of Allegiance and Supremacy, and a Testimonial from the Minister of the Parish of their Conformity to the Church of *England*. There was likewise an Order of Council for the stay of eight Ships in the River of *Thames*, bound for *New England*, and for putting on Land all the Passengers and Provisions therein, the care whereof was committed to the Lord High Treasurer; but afterwards the Restraint was taken

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*Council's  
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Aug. 1637.

Proclamation  
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off. Nevertheless his Majesty taking notice of the frequent resort thither of Persons ill affected to Church and State, and of the factious Disposition of the People of that Plantation, and how unworthy they were of any Support or Countenance from hence, issu'd out a Proclamation, prohibiting all Merchants, Masters and Owners of Ships, to set forth any Ship with Passengers for *New England*, without the licence of such of the Council as were Commissioners for the foreign Plantations. And the Council by another Order taking notice, that several unconformable Ministers had and did transport themselves to the *Summer Islands* and other Plantations, where they nourish'd their factious and schismatical Humors, seduc'd his Majesty's Subjects, and hinder'd their Conformity; they, by his Majesty's expresse Command, requir'd the Lord Admiral, that no Clergyman be suffer'd to go over to the *Summer Islands*, without the approbation of the Archbishop of *Canterbury* and Bishop of *London*, and that he cause those already gone to be remanded back. The severe Censures in the Star-chamber, the rigorous imposing of Ceremonies, and the silencing multitudes of Ministers for not reading the Book for Sports on the Lord's Day, caus'd both Ministers and People to sell their Estates, and set sail for *New England*.

There being a great Discourse that the Archbishop of *Canterbury's* Chaplain had licens'd a Book, entitul'd, *An Introduction to a devout Life*, containing Passages tending to Popery, the State thought fit to purge themselves thereof: The Chaplain being well befriended, acquitted himself, and a Proclamation issued, dated *May 14.* to this effect; That the Copy being brought to the said Chaplain for Licence, he expung'd several Passages tending to Popery; but the Translator and Stationer, after it was licens'd, caus'd those Passages to be inserted again; that the Stationer was apprehended, and the Translator sought for. His Majesty therefore out of his pious care for the Religion profess'd, commands all who have or shall have any of the said Books, to deliver the same to the Bishop or Chancellor of the Diocess, who are requir'd to cause them to be publickly burnt, as those are which have been already seiz'd.

*Paul. am.*



*Panzani*, who was the Pope's Nuncio in *England*, writ a Letter to one of his Majesty's Principal Secretaries of State, dated in *Rome* May 31. He saith, that understanding by *Seignior Francisco*, sometimes his Secretary, *Cavaliere Hamilton*, Father *John* the Benedictine and others, how much the Secretary had strain'd in favour of him, he was forc'd to commit this rudeness to give him trouble; that he was infinitely oblig'd to him during his abode in *London*, where the day was rare wherein he did not receive from him (the said Principal Secretary) some Grace, in favour of the poor Catholicks. He congratulates the noble Manners and Behaviours of the Secretary's Sons, which have gain'd 'em such an Opinion among those that knew them in the Court of *Rome*, particularly Cardinal *Barberino*; and it griev'd him not to have the Fortune to meet them there, that he might have attested his Devotion to the Secretary.

13 Car.  
Letter from the Pope's Nuncio to one of the Secretaries of State.

About this time, that nothing might hinder the Beauty of *St. Paul's* then repairing, *St. Gregory's Church* was pull'd down, and *Cheapside* leading to *St. Paul's* was very glorious by the shew of Goldsmiths Shops; but some Shops eclipsing the same, the Council, May 24. writ to the Lord Mayor and Aldermen of *London*, That they had in two Letters in 1635, taken notice of the remissness of the then Lord Mayor and Aldermen, in seeing their Directions by his Majesty's Command put in execution, by bringing all the Goldsmiths to *Cheapside* or *Lombardstreet*, and that all other Tradesmen should be remov'd from thence, or give security to remove by a certain day, or upon refusal to commit them. And their Lordships now let them know, that if this be not speedily done, his Majesty will call them to an account for it; and requir'd them to cause all Shops in *Cheapside* and *Lombardstreet*, which are not Goldsmiths, to be presently shut up, and not open'd till further Order from the Board. And July 7. the Council taking notice of the negligent Performance thereof, and that those that had shut up their Shops for a while, had contemptuously open'd them again, order'd, That if the Alderman or his Deputy did not forthwith cause every Shop standing within his Ward in *Cheapside* and *Lombardstreet* to be shut up, other than Goldsmiths,

*St. Gregory's Church* pull'd down.  
Letters and Order of Council for shutting up Shops in *Cheapside*, &c. that were not Goldsmiths.



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Goldsmiths, the said Alderman or his Deputy should be committed to Prison by warrant from the Board. The Council likewise writ another Letter to the Lord Mayor of London, dated January 12. mentioning their said Letter of May 24. and Order of July 27. notwithstanding which there were at least twenty four Houses and Shops not inhabited by Goldsmiths, but by other Tradesmen, having part of their Shops shut, and the rest open; to require his Lordship to acquaint the Aldermen and their Deputies therewith, and that if they do not presently put their former Directions in execution, they would teach them to know the Commands of that Board ought not to be slighted; they hope his Lordship would see his Majesty's Commands better perform'd than his Predecessors had done.

Mr. Just.  
Berkley  
refuses to  
bail A.  
Jennings,  
W. Pargi-  
ter and S.  
Danvers  
upon their  
Writs.

Upon a *Habeas Corpus* for Alexander Jennings Prisoner in the Fleet, the Return was, that he was committed by two several Warrants from the Council, dated Novemb. 5. 1636. the one expressing no Cause, and the other for not paying Messengers Fees; but he was remanded by the Justices of the King's Bench, till he brought a Certificate that he had paid his Assessment for Ship-mony. Upon another *Habeas Corpus* in Mich. Term he was again remitted. Upon a third *Habeas Corpus* and the same Return, with the addition of a new Commitment for using scandalous words against his Majesty's Government, he was in Trinity Term 1637. again remanded to Prison by Sir Robert Berkley, then newly sworn one of the Justices of the King's Bench; who likewise defer'd to bail William Pargiter and Samuel Danvers Esqs; tho the Returns upon their *Habeas Corpus* were only Warrants of the Council, not expressing any Cause; and then made a Rule for a new Return to be receiv'd, which was to this effect: That his Majesty upon the Scottish Rebellion, having granted Commissions under the Great Seal for the arraying and arming Persons of able Bodies and Estates, and for assessing such as were not of able Bodies but of able Estates, towards the Charge of arraying others, and for imprisoning such as should be refractory; the said William Pargiter was, for refusing to pay the five Shillings assessed on him, and for seducing others by his example from their Obedience, committed by the

the Council's Warrant, until he should be deliver'd by due course of Law; and that the said *Sir Samuel Danvers* was committed by the like Warrant for the like Cause. Upon which Returns *Robert Berkley* remanded them, tho' bailable by Law, and sufficient Bail offer'd: And to several others he deny'd Writs of *Habeas Corpus*, and when he had granted them to others, he remanded them, tho' by the Returns it appear'd they were bailable: For all which he was afterwards accus'd in Parliament.

*John Williams* Dean of *Westminster*, was advanc'd by King *James* the First to be Lord Keeper of the Great Seal and Bishop of *Lincoln*, and continu'd in favour until that King's Death: But afterwards, thro' the malevolence of the Duke of *Buckingham* (who, in the succeeding King's Reign, could do and undo what and whom he pleas'd) the Great Seal was taken from him, and he betook himself to a more private Life. In the time of his retirement, *Sir John Lamb*, and his Son-in-law *Sibthorp* (who preach'd that extravagant Sermon, wherein he deliver'd up the Lives, Liberties and Estates of the King's Subjects to his disposal, and for not licensing whereof Archbishop *Abbot* was by the King confin'd to one of his Houses in *Kent*) complain'd to the Council of the discouragement the Bishop of *Lincoln* gave them in their Proceedings in the Ecclesiastical Courts against the Puritans, who (the Bishop said) he was sure would carry all at last, with many other aggravating Circumstances. Their Examinations upon Oath being taken by the Council, were seal'd up, and deliver'd to *Sir William Beecher*, one of the Clerks of the Council, who was requir'd to keep them secret, and permit none to see them: He, when his waiting Month was done, deliver'd them over to *Mr. Trumbel* the other Clerk of the Council; but the Bishop, or some for him, got Copies of them, tho' (as he afterwards alledged) he never saw them. Hereupon a violent Prosecution of the Bishop follow'd, and *Mich. 4. Car.* an Information was exhibited against him in the Star-chamber by the then Attorney General, for contriving and publishing false Tales and News to the scandal of his Majesty's Government, and for revealing some things contrary to the Duty of his Place, and

*The great Cause of the Bp of Lincoln in the Star-chamber.*



*Ann. 1637.* and Oath of a Privy Counsellor. In which Cause, the Bishop with more than ordinary eagerness, endeavouring to support the Credit of one *John Prigeon* Gent. a Witness for him, the Attorney General let fall the first Information, fearing a defect of Testimony; and (as the People of that Age would have it) the State wanting Money to go to war with the *Scots*, to which a round Fine of 10 or 12000 *l.* would be some help, the Attorney General exhibited a new Information in that Court against the Bishop, charging him with a Practice unduly to gain the sight and perusal of certain Examinations taken by the Privy Council, and by them commanded to be kept from the view of all men, to the end corruptly to procure Witnesses and Instructions to contradict and weaken those Examinations; and for tampering with some Witnesses to retract their former Testimonies, and with others to conceal their Knowledge, and say they did not remember; and for Subornation of Perjury in an Affidavit made in this Court by the Defendant *Catlin*, and for other Offences. And the last Cause coming to a Hearing, 11 Jul. it appear'd upon the Proofs, that the said *Prigeon* being examin'd as a Witness for the Defendant, Liberty was given by an Order of this Court, *Hil. 10 Car.* to the Plaintiff to examine to the Credit of *Prigeon* upon certain Exceptions, and to the Defendant to examine Witnesses to support his Credit; one of which Exceptions was, That *Prigeon* being accus'd by *Eliz. Hodgson* to be the Father of her Bastard Child, and adjudg'd so by the two next Justices of Peace, *Prigeon* appealing to the Quarter Sessions, did labour to procure her for Money to lay the said Bastard Child to some other Father, and to suppress the Testimonies of some Witnesses against him, and to draw others to equivocate upon their Oaths.

*Mr. Gardiner* Recorder of *London* made an ingenious Defence for the Bishop; to which *Sir John Banks* the King's Attorney General reply'd, That the Defence made by the Defendant's Counsel, consisted more of Observation than Proof; that notwithstanding what had been said of the Hatred between *Sir John Mounson*, *Mr. Amcock* and *Prigeon*, it would appear that *Sir John Mounson* had done nothing but according to the

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the duty of his Place: He said, that in the examination of Witnesses in the first Cause, it appear'd since Publication therein, that as to the collateral matter touching the Credit of *Prigeon*, there had been such tampering with the King's Witnesses, and such Preparations, Instructions and Limitations to the Defendant's own Witnesses, as never was in any Cause, and which tends to the Subversion of all Justice; that it was time for Example's sake to bring such Misdemeanors to a publick Sentence, for we live not under a Cobweb-law that taketh small Flies, and lets the great ones pass. He descended to the particular Charges against the Defendant the Bishop, and began at his tampering with four Witnesses, viz. *Lunn*, *Wetherel*, *Alice Smith* and *Ann Tubb*, who all swore at the publick Sessions that *Prigeon* was the Father of the Bastard Child, some from *Prigeon's* own, and others from the Mother's Confession at the time of her Delivery: But the Bishop to support the Credit of his Witness *Prigeon*, hath labour'd all he could to make them vary from their Testimony. The Bishop objects, 1. By the Order of Sir *John Bowles*, Serjeant *Callis* and others, 2 *May* 9 *Car.* *Prigeon* was acquitted, and the Bastard laid upon one *Booth*. *Ans.* This was done in the absence of Dr. *Topham* and Dr. *Farmery*, who took the first Examination, and of the said four Witnesses, one whereof *Wetherel* was hir'd to be absent, and this Order was controul'd by a subsequent Order of 3 *Octob.* when all the other Justices but Sir *John Bowles* were present at the Sessions: And for the Order that was confirm'd by the King's Bench, it was done upon the legality of it, and not in respect of the Fact; and then *Prigeon* had submitted to keep the Bastard, and had given Bond to the Parish. It's true, a man's having a Bastard, shall not make his Testimony wholly void; but his Crime is his labouring with the four Witnesses, and giving them Money to make a Retraction. *Wetherel* depos'd, *Prigeon* intreated him not to appear at the Sessions, and to answer to no more Questions than the Court ask'd him; but in the second Cause he minceth his Deposition, and saith, *Prigeon* did not draw him by Bribes or Rewards to equivocate, &c. whereas *George Walker* sweareth, that the Money was to be paid to a Butcher by

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by six pence in every Joint of Meat (so no Bribe) and that *Owen* and *Powel* shew'd *Wetherel* a Dictionary, and therein the meaning of the words Equivocation and Subornation; and when *Wetherel* was examin'd upon a leading Interrogatory, viz. Whether did *Powel* at the Time and Place aforesaid request you to write your Name to any Note at all? *Wetherel* swears that *Powel* did not in *January* aforesaid, at the Place aforesaid, request him to write his Answer to any Note; so he sweareth to the Time and Place only: whereas *Walker* swears, that by the direction of *Owen* and *Powel*, he tender'd the Note as by the Bishop's Direction. As for *George Walker*, it's prov'd that he was employ'd to tamper with *Alice Smith*, and was to give the Bishop an account of their Proceedings: They say it was lawful to ask *Wetherel* a Question, but here is more than asking a Question, a Note deliver'd by *Powel*, and a Dictionary to expound Equivocation and Subornation: The Defendants insist upon the Depositions of *Tubb* and *Alice Smith*, and that what they said was but an Explanation of what they had formerly sworn, and no Retracting: But it's plainly a Retracting, 1. *Alice Smith* formerly depos'd, that *Prigeon* desir'd her to see if she could get the Woman to lay the Child upon any other; but now it is, to get her to lay the Child upon any other that she reputed to be the Father of it. 2. *Ann Tubb* at the Sessions, swore *Prigeon* offer'd her Twenty Shillings, to get the Woman to lay the Child upon any other but upon him; but now it is to lay the Child upon the true Father. 'Tis objected how improbable it was that *George Walker* should be employ'd to support the Credit of *Prigeon*, there being no kindness between them. *Ans.* 1. There's nothing yet read of any unkindness. 2. *Walker* was the more likely to be employ'd, because a Proctor in the Bishop's Court. 3. The Service was not to *Prigeon*, but to the Bishop, who was concern'd to support *Prigeon's* Credit. It's objected, there was only a Question ask'd of *Alice Smith*, and no tampering. *Ans.* The very Question, viz. Did not he say it was to lay the Child upon any other that was the true Father? was more than a bare Question; for it pointed out what she should say in contradiction to her

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her former Oath. He said, it was depos'd by *E. Smith*, that *Alice Smith* affirm'd *Prigeon* offer'd her five Pounds to procure the Child to be laid upon any other but himself; and when *E. Smith* ask'd her, Whether it was not to lay the Child upon any other that was the right Father, *Alice Smith* deny'd it, and said besides, that the Woman acknowledg'd *Prigeon* had twice the use of her Body against the Church-wall. Mr. Attorney said, That *George Walker* related to *Owen* and *Powel* the Discourse he had with *Alice Smith*; and that in a Letter to the Bishop it was said, they could get nothing out of her; and this pressing of *Alice Smith* is confess'd in *Walker's* Deposition. *Robert Richardson* swears the Bishop sent for him before his Examination, and understanding that he, as Clerk of the Peace, drew up the Examinations of *Tubb* and *Alice Smith* at the Sessions (which was done in open Court) the Bishop said he was mistaken in the penning of them, for he should have said *to lay the Child upon the right Father*; he bid him be tender of *Prigeon's* Credit, and *Richardson* verily believ'd he would have had him alter'd the Record. The Defendants deny they shifted *Alice Smith* from place to place, to keep her from being examin'd for the King: They say she came to *Huntington* in *March* to be examin'd, but the Commissioners not being there, they brought her to *London*, where she liv'd openly and kept an Alehouse at *Whittington's* Cat till the Sickness in *Michaelmas* Term, and all that time the King's Council might have examin'd her. To which Mr. Attorney reply'd, that when she was at *Huntington*, they might as well have brought her to *Bedford* (where the Commission was executed) which is but 12 miles, as to *London* which is 50 miles; that when she was with her Husband, she could not raise forty Shillings to save his Goods from Execution, and went away in poor Habit; but when she came to be examin'd in *London* for the Defendants, they profer'd her Money, and told her she should never want; she had presently Money to furnish an Alehouse, returns into the Country Gentlewoman like, and lends both Money, and tho' the Justices of Peace in *London* might know her when she kept an Alehouse, yet how could the Prosecutor find her out to have her examin'd?



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Lord Chief Justice Finch.

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*Lord Chief Justice Bramston.* The Lord Chief Justice *Bramston* said, He believ'd the Bishop had a sight of the Writings from the Council-Chamber: He finds him much to blame in tampering, persuading, threatening and directing of Witnesses; by his Attempts to suppress the Sessions-Order, he endeavour'd Subornation of Perjury; and his very attempting to suborn Witnesses (tho he effected it not) is censurable: These are gross Faults in him, who hath *Curam Animarum* throughout his Diocess. He fin'd *Powel* 300 *l.* *Lunn* 1000 Marks, and to be disabled as aforesaid: For the Bishop and Sir *John Mounson's* Damages, he agreed with the Lord *Cottington*.

Mr.



Mr. Secretary Windebank, Sir Thomas Jermin and the Earl of Lindsey agreed with the Lord Cottington *in omnibus*, and so did the Earl of Arundel, but with some sharp Reflections upon the Bishop; That he, one of the grave Bishops of the Realm, who had sat in a high Office under two famous Kings, should now come to be censur'd in matter of Justice; and that he who had the Protection of Equity, should become a Subverter of Right, and a Suppressor of the Truth; he was sorry for his Person, but much more for his Profession, no Child being more reverent to a Mother, than he was tender of the Church and of that Coat.

The Earl of Manchester, Lord Privy Seal, repeated what occasion'd the Bishop of Lincoln (a Person of such Parts and Fortune) so to overshoot himself, as that he would undo his own to maintain the Credit of another Man. He said, a Bill being 4 *Car.* exhibited in this Court against the Bishop about matter of State, *Prigeon* was the main Witness for clearing the Bishop: The Bill slept from 4 *Car.* to 8 *Car.* when a Provocation begets an Information, *Novemb.* the 8<sup>th</sup>. In *Feb.* following the Bastard is born, this seems to touch upon *Prigeon's* Credit; and in *May* following it must be laid on another Father, one *Boon*; but the Justices of Peace publickly order'd it to be laid on *Prigeon*, whose Testimony it was thought was thereby disabled, if the Bishop should have occasion to use it: Wherefore *Prigeon* must be set upright, tho by wresting of Consciences and falsifying Oaths, those Ties among Men, whereon our Lives, Credits and Possessions do so much depend. He said, his tampering with Witnesses, breaks out all the way as the Cause goes: That the Bishop was charg'd with six Faults; 1. Withdrawing Witnesses out of the way. 2. Preparing and fitting them to his own ends. 3. Deterring them before sworn, and threatening them afterwards. 4. Sifting out (by indirect means) what evidence they had given, the better to prepare cross Proofs against that Evidence. 5. Causing Witnesses to speak less than they knew, or to vary from what they had sworn before. 6. Getting Copies from the Clerks of the Star-chamber, before the due time of Publication. Now for a Man of Wit, of great Experience, and one

13 *Car.*

Secretary Windebank.

Sir Tho.

Jermin.

Earl of

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Earl of

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Lord Privy Seal.

*Lunn*, 1637, who had been a Judge, to run violently into such Errors, he could not but admire and much pity him; nay he takes upon him to patronize *Carlin* too. He excus'd the Affront *Kilvert* offer'd the Bishop, tho' to his own Person, and in the chief place of his Diocels, and imputed it all to *Kilvert's* Zeal in the Prosecution of the Cause; the Writings from the Council-Chamber were absent long enough for the Bishop to make use of them. He fin'd *Lunn* 1000 Marks, he would not let *Carlin* have escap'd, if he could legally do it; he agreed with the Lord *Cottington* in the Fines of *Owen* and *Powel*, and in all things concerning the Bishop.

Ld Treasurer.

The Bishop of *London* Lord Treasurer said, That to repeat the tampering with *Alice Smith* and *Werherel*, and the undue Practices of *Lunn*, *Owen* and *Powel*, so copiously already set forth, were but *actum agere*; that by the Bishop's striving to suppress a fault in *Priggeon*, he hath overthrown his own Credit, and by labouring to take a stain out of another's face, he hath open'd several Scars and Ulcers in his own. He pitied him, and was sorry he should pursue what might with a great deal more Discretion have been let alone; as to the Bishop, *Lunn*, *Owen* and *Powel*, he agreed with the Lord *Cottington*.

ArchBp of Cant.

The Archbishop of *Canterbury* began with his great sorrow, that a Person of the Bishop of *Lincoln's* Profession, one so wise, discreet and understanding, of such excellent Parts natural and acquir'd, of such Wisdom, Learning, Agility of Memory and Experience, should be guilty of such Offences as deserv'd the Censure of this Court; that after he had been overtaken in one Error in the first Cause, he should now fall into a worse by obnoxious and criminal ways; that when some Question was made of his Loyalty and Discretion in words only, he should by unlawful means seek to justify his Words and Actions: He wish'd he had been as free from Passion as *St. Cecilia*, who when many Witnesses came in against her and none for her, said with *Job*, *Testis meus est in Caelis*; whereupon the Witnesses against her were so daunted, that they cried out, *Nos nihil habemus contra Ceciliam*. He said he had been five times upon his Knees to the King on the

the Bishop's behalf, and deliver'd several Petitions for him into the King's own hand, sent him the King's Answer upon every Petition, and no longer than *Christmas* last mov'd the King again for him; and the Bishop, by his Letter, acknowledg'd his main hopes rested on him (the Archbishop) yet for all this he was but coarsly us'd and ill requited by him: That by a Cross Business which came in the way, the King was so exasperated against the Bishop, that had not he (the Archbishop) interpos'd, he must have then fallen; so tender was I (said the Archbishop) that a publick aspersion should not leave a stain upon my Coat. He said, his Majesty was desirous of a Reconcilement, and would often ask what *Lincoln* did, whether he sought to repair his (the King's) Credit, or shew'd any sorrow for his Fault? He said, whoever drew or advis'd his Petitions were not his Friends; for there is not one word in them of Repentance or Recantation; so that by his stubborn Behaviour, he hath brought the Business to be ript up, heard and decided; yet there wanted not some who gave out, that the Bishop had committed no fault, only he was rich, and the King wanted 10 or 12000 *l.* But the King is just as he is honourable. As for the Charges and Defences in the Cause, for him to repeat them, would be but *dictum dicere*; that tho this matter be not perhaps Subornation of Perjury, yet tampering, threatening, deterring, affrighting, corrupting, silencing or absenting of Witnesses, are *ejusdem natura*, and foul Crimes; and if this be suffer'd, it will destroy the Interest of *meum* and *tuum*, and subvert all Right and Justice. It is contrary to the great Commandment, *Thou shalt not bear false Witness*; in *Lev. 5.* no man is to conceal a Truth; in *Exod. 23.* & *Deut. 9.* a Man is not to bear false Witness in any case, and the Offender was to be punish'd *per legem Talionis*, to suffer what the Party accus'd should have undergone, if guilty. From the Creation of the World until the Law, the Holy Ghost makes no mention of any that attempted this, nor is there any Vestigium of this Crime for above 3000 years; and the Fathers say, two or three Witnesses are requir'd in Scripture, because it was not likely so many should be corrupted. He said, that of a long time he read of no practice of



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that kind, except that set on foot by *Jezabel*; what she was, and what end she made, is recorded; and the Holy Ghost seems unwilling to have it thought that this odious practice was rooted in human Nature, but that it took its birth from Hell, and came in with two Sons of *Belial*, in the Devil's Name. Afterwards such a Tutor could not want apt Scholars, this Engine fetch'd from Hell outfac'd the God of Truth, for false Witnesses were found out against Christ himself, *Mar. 14. 55.* and afterwards against *Stephen, Acts 6. 11.* Thus among those stiff-neck'd Jews this fault was in use, when Sin and Iniquity grew ripe; but the subversion of their City follow'd, and in their room came the *Romans*, who made some severe Laws against false Witnesses, as that confirm'd by the Law of the twelve Tables; that the guilty Person should be thrown down a steep high Rock, *e monte Tarpeo*, or *e saxo Tarpeio*, to have his Bones dash'd to pieces. Afterwards it was Banishment and Confiscation of Goods, and a heavy Punishment was inflicted on their Posterity. In the 59th Council, a course was set down for preventing this Crime, and for punishing the Offenders: And in latter times *Bartolus* saith, so much as an Overture of tampering with a Witness, tho the Party effect not his purpose, or menacing, threatening or deterring a Witness, is censurable. And this Rule the Archbishop said he should follow, if there were but a bare Attempt to smother, deter or hinder any Witness, be it by Words, Looks or Actions, Promises or Threatenings: In every Age the Church hath censur'd this Crime. In the second part of the Decretals, a Suborner of Witnesses, if he brought a false Testimony (tho compel'd thereunto by his Lord or Master) was to be excommunicated during his Life. A heavy Burden (tho in these looser times little set by) to be bereav'd of the Communion of Saints, and of being a Member of Christ's Flock, and cut off from that holy Body the Church! In 1st Council of *Macedon*, 17 Canon, a perjur'd Person is rank'd with Murderers; nay a Suborner and Procurer of false Witnesses is worse than a Manslayer, for he destroys two Souls at once, his own, and that of him who sweareth.

After:

Afterwards in the Western Parts of *England*, and in *France*, in the 17<sup>th</sup> Council of *Agatha* held in the time of *Alexius*, no better than a barbarous *Goth*, a Tamperer with Witnesses was to be put to death. And *St. Augustin* who liv'd about that time sets it out excellently in his 28<sup>th</sup> Sermon *de Nativitate Domini*. *Aristotle* in his *Rhetoricks*, lib. 2. Rh. 1. gives admirable Rules about interrogating Witnesses, which comprehend the safest ways now us'd in that kind. He said, that in our own Country about the year 1224. in the Reign of King *H. 3.* in a Council held at *Oxford* by *Stephen Langton* Archbishop of *Canterbury*, a foul Penance was inflicted on him that should either bear false Witness, or procure it in another. A Tamperer with Witnesses doth wrong to three of the greatest Persons in the World. 1. To God, whose Omniscience, Omnipresence and Omnipotence he slights, and whom he robs of his very Essence, which is Truth. *Aristotle* terms him one *qui pietatem non curat*, for he either denies the Deity, or thinks he can escape the reach of it; and *qui putat se latere Deo*, as if he could skulk from the hand of God at his pleasure. 2. To the King, whom he wrongs in the very Seat of Justice, forcing his Judges to do Injustice; for if the Witnesses swear falsely, the Jurors cannot come at Truth, nor the Judges give Sentence, as otherwise they ought. 3. To the Innocent: A Person many times little esteem'd by the World, but great in the sight of God: He is abus'd, and perhaps undone by false Witnesses; his Person traduc'd, his Credit taken away, his Estate wrested from him; sometimes his Goods, another time his Lands, a third time himself is at stake: But *Testimonium ejus est in Caelis*; doubtless there is a Reward for the Righteous, and a God that judgeth in the Earth, for there is nothing hid which shall not be reveal'd. He told them, that from what he had said might be seen the vile Nature and Original of this canker'd and pestilent Weed; how detestable it had been in all Ages, the dangerous Effects of it, and how carefully it ought to be suppress'd: He wonder'd *Lake* should be sent to *Cambridg* to take the Degree of Doctor, and that they would let him pass. He could

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not commend *Moskyn* (tho otherwise a civil and deserving Man) for being present when a Blank was put up and an Affidavit to be made to it: *Walter Walker*, tho a Solicitor in the Cause, might have been asham'd of this blank Affidavit; he escapes sentencing more by luck than honesty; and the Bishop is a miserable Man thus to defend *Prigeon's* good Name with the loss of his own, *Catlin* must have a Living given him, but as yet he had not fully play'd his part; stay your hand therefore, said *Walker*, till the business be done. He said, he found *Catlin* to be a very leud Man, a very Incendiary, and truly to be parallel'd with that other *Catlin* of Rome: For *Lunn* let him be put from the Offices he holds; for *Powel* he could go deeper than any before him: He set *Kilvert's* affronting the Bishop, and the Bishop's offering to be present at the Examination of the Witnesses, one against the other; and commended *Kilvert* for his stout Behaviour in the King's business. He said, the Bishop and his Passions were more to be condemned than *Kilvert's* bold Carriage towards a Bishop in his own Diocese. The Papers from the Council Table were return'd unseal'd; and by the Counterproofs the Bishop had made, it plainly appears he perused them. Sir *John Mounson* had done nothing but his Duty, and he held 1000 Marks little enough for his Reparation. For the Bishop of *Lincoln*, he said he was heartily sorry, but he must do what his Conscience led him to, and so agreed with the Lord *Cottington* and the rest.

The Lord Keeper.

The Lord Keeper recapitulated a great part of the Evidence: He acquitted *Moskyn*, he let *Catlin* pass, because the rest of the Court had done so, tho a notorious Actor: He said, the Cause being of so high a nature, he should not censure *Kilvert* for his unmannerliness, tho the Affront was great to a Bishop of the Diocese, and in the chief Seat of his Jurisdiction, where he might have forborn him in that respect: That he saw no proof of that concerning Sir *William Beecher*: He finds *Lunn*, *Tubb* and *Wesberel* had been tamper'd with, but not that the Bishop had been faulty with them: He finds *George Walker* censurable: He could not tell how 1000 or 1200*l.* could be spent by the

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the Bishop to support *Prigeon's* Reputation, unless in such courses as were us'd with *Smith* and *Carlin*; neither are two Witnesses to be expected in such cases as these, nor absolutely necessary where Circumstances concur with what is said by *singularis Testis*: nor doth it follow, that if what *Alice Smith* swore after she had been tamper'd with be true, viz. That she was to perswade *Elizabeth Hodgson* to lay the Child to the right Father; therefore her former Deposition, that she was to perswade her to lay the Child to another Father must be false, for both may be true; and yet an Attainder for a false Verdict (the Punishment whereupon is loss of Lands, Goods and Liberty) hath been in the like case. But may not a Man meddle with or question a Witness? He answer'd, Yes, but with certain Limitations; for otherwise if Witnesses be corrupted, the Judges and Jurors may be both abus'd; and if Witnesses be led and instructed by leading Questions (such as the Bishop ask'd in this case) it comes all to one as Subornation. A Solicitor may incite and inforce a Witness to come in (which is not so allowable in a Stranger) he may discourse him, and ask him what he can say to this or that Point, to know whether he be fit to be used in the Cause, and to save the Court's being troubl'd with impertinent Witnesses: But a Solicitor must not instruct, threaten, or carry Letters to a Witness, to induce him either way, or perswade him to say more or less than according to his Conscience: This leading (if of a Jury) is call'd Embracery, *amplexus*, when one hugs them in his Arms to procure his own ends of them. 13 H. 4. 16 H. 4. 22 H. 6. It hath been order'd where a great Person is concern'd, that he absent himself upon the Trial; for the very Countenance of such a Man, who is powerful in the contrary to do a poor Witness harm in another way upon another occasion, is enough to put him off from what he was resolv'd to speak, and for fear or in hopes of favour to speak sparingly, if he doth not altogether decline the Truth. He fin'd *Cadwallader Powell* 300 l. *Owen* as much, *Lynn* 1000 Marks, and to be disabled to practise or bear any Office: For the

*Ann. 1637.* the Bishop of *Lincoln*, *ex se cadit*, he is the cause of his own Overthrow; he pity'd him as a Churchman and a Bishop, and he was sensible of his Precedency to him in the place he (the Keeper) then held, at the Pleasure of the King his Master: It could not be so much as dream'd on, that a Man of his Wisdom, Experience, Eminence, Learning, Virtues and commendable Qualities, should ever be guilty of so much Weakness, should seek his own Ruin to maintain another Man's Reputation: And for a Churchman, whose Profession it is to lead Mens Consciences into the right way, to be a Seducer of Consciences, is a fouler Stain in him than in another: But when to that sacred Calling, shall be added that he became a Judge in that great Court of Chancery, where Equity and Conscience give the very Denomination to the Court, that he had born the Great Seal of *England* before two such great Kings, and receiv'd remarkable Favours from them both, this increases the wonder, that for so small a matter, so little really in it self concerning him, he should countenance and cherish such foul Crimes: He agreed as to the Bishop with the Lord *Cottington* in all things.

*The Sentence executed.*

The Bishop of *Lincoln* hereupon was committed close Prisoner to the Tower: His Fine of 10000*l.* that the weight of it might not oppress him quite (for the King had declar'd he would not abate him any thing) he desir'd might be taken up by 1000*l.* yearly, but that Favour was deny'd him: And *Kilvert* the Bishop's avow'd Enemy was sent to *Bugden* and *Lincoln* to seize upon all he could. *Kilvert* glad of the Office, makes sure of all that was to be found, Goods of all sorts, Plate, Books, &c. to the value of 10000*l.* of which he never gaye account but of 800*l.* The Timber he sell'd, kill'd the Deer in the Park, sold an Organ for 10*l.* which cost 120*l.* and Pictures for 5*l.* which cost 400*l.* made away with what Books he pleas'd, and continued revelling for three Summers in *Bugden*-House: For four Cellars of Wine, Syder, Ale and Beer, with Wood, Hay, Corn, &c. stor'd up for a year or two, he gave no account

account at all. And thus a great Personal Estate was squander'd away, and an inconsiderable part of the King's Fine paid all this while. After three years Imprisonment or more the Bishop was releas'd, sat in the Long Parliament which began in 1640, was restor'd to all his Ecclesiastical Dignities and Functions; and when his old Friend *Kilvert* (whom we have mention'd so often) came to him to crave Pardon and Indemnity for the Wrongs he had done him, *I assure your Pardon* (said the Bishop) *for what you have done before, but this is a new fault, that you take me to be of so base a Spirit, as to defile my self with treading upon so mean a Creature: Live still by pettyfogging and impeaching, and think that I have forgotten you.* The King afterwards in 1641. advanc'd him to the Archbishoprick of *York*, which by reason of the Civil Wars, and what follow'd thereupon, he enjoy'd a very short time, tho he dy'd not till 1650.

11 July, A Decree concerning Printing being drawn by Advice of the Lord Keeper, Archbishop of *Canterbury*, Bishop of *London*, two Chief Justices, and Chief Baron, was produc'd by Sir *John Banks*, Attorney-General to the Court of Star-chamber, who praying it might be recorded there, it was order'd to be recorded accordingly and printed; which Decree was to this effect, That whereas 23 June 28 Eliz. divers Decrees and Ordinances were made for regulating Printers and Printing, which by Experience have been found defective in some particulars, and divers Abuses have since been put in practice, and libellous, seditious and mutinous Books and Papers had been printed without Licence: It was order'd and decreed, That the said former Decrees and Ordinances should stand in force, with the Additions, Explanations and Alterations following, viz. That no Person should print either beyond the Seas, or in this or any other of his Majesty's Dominions, any seditious, schismatical, or offensive Books or Pamphlets, to the scandal of Religion, Church, State, Corporations, or particular Persons; nor import, sell, dispose of, bind, stitch, or sow any such, upon pain of losing the Books and Pamphlets, and



*Ann. 1637.* and undergoing such Fine, Imprisonment or Corporal Punishment, as by this Court, or the High Commission respectively, as the Causes require, shall be inflicted. 2. No Book or Pamphlet shall be printed, unless the same, and also the Titles, Epistles, Prefaces, Proems, Preambles, Introductions, Tables, Dedications, &c. thereunto annex'd, or therewith imprinted, shall be licens'd as is hereafter expres'd, and enter'd in the Register-Book of the Company of Stationers, on pain of being disabled to use the Art of Printing, and of such further Punishment as shall be inflicted by one of the said Courts. 3. Common Law Books to be allow'd by the two Chief Justices and Chief Baron, or one or more of them, or by their appointment: History of the present Times and State-Affairs by one of the Principal Secretaries of State, or by his appointment: Heraldry and Titles of Honour by the Earl Marshal, or his appointment: All other Books of Divinity, Physick, Philosophy, Poetry, &c. by the Archbishop of *Canterbury*, or Bishop of *London*, or by their appointment, or the Chancellors or Vice-Chancellors of the Universities, as to such Books only (not concerning the Common Law or Matters of State) as shall be printed there. 4. That there shall be two Copies of every Book licens'd, with the Titles, Epistles, &c. one to remain in the Registry of the said Archbishop, or Bishop, or in the Office of the said Chancellor or Vice Chancellor, or with the Earl Marshal, Principal Secretary, Chief Justices, or Chief Baron respectively, that nothing may be alter'd, and the other to remain with him whose Copy it is; and upon both the said Copies the Licenser shall testify under his hand, that there is nothing therein contain'd contrary to Christian Faith, or the Doctrine or Discipline of the Church of *England*, or against the Government, or contrary to good Life, or good Manners, or otherwise, as the nature of the said Work should require; and the Licence or Approbation to be printed in the beginning of the Book, with the Name of the Licenser. 5. That Persons bringing Books from beyond the Seas shall before they deliver them forth, or expose them to Sale, give a Catalogue of them in writing to the said Arch;

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Archbishop or Bishop, on pain of such Punishment as by this or the High Commission Court shall be thought fit. 6. Nor shall they open any dry Fats or Packs of such Books, nor the Custom-house Officers, on pain of losing their Places, suffer the same to pass out of their hands before the said Archbishop or Bishop have appointed one of their Chaplains, or other Person, with the Master and Wardens of the Stationers Company, or one of them, to be present at the opening thereof, and to view the same: And if any seditious, schismatical or offensive Books be found, they are to be deliver'd to the Archbishop or Bishop, or to the High Commission Office, that the Offender may be punish'd by one of the said Courts, and a course taken with the said Books. 7. None shall import or import from beyond the Seas, or bind, stitch, or put to Sale any Copy, Book, or part of any Book, which the Stationers Company or other Person hath the Privilege or Authority solely to print, on pain of forfeiture of the Books, and such Fine and other Punishment, as by one of the said Courts shall be thought fit. 8. The Names of the Printer, Author, and Person for whom printed, shall be set to all Books, Ballads, Charts, Portraictures, or other things, on forfeiture thereof: The Presses, Letters, and Instruments for printing to be made unserviceable, and the Offenders to be fin'd, imprison'd, and corporally punish'd, or otherwise, as by one of the said Courts shall be thought fit. 9. If any Person shall print, forge, put or counterfeit in or upon any Books the Name, Title, Mark or Vinnet of the Stationers Company, or of any Person having Privilege to print the said Books, without the Consent of the said Company or Party so privileged, he shall forfeit the Books, and be punish'd by Fine, Imprisonment, or otherwise, as shall by one of the said Courts be adjudg'd. 10. No Haberdasher of small Wares, Ironmonger, Chandler, Shopkeeper, or other Person, not having serv'd seven years Apprentice to the Trade of a Bookseller, Printer, or Bookbinder, shall in *London*, or elsewhere, receive, take, or buy to barter, sell again, change, or do away any Bibles, Testaments,

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ments, Psalm-books, Primmers, Abcees, Almanacks, or other Books, on pain of forfeiture thereof, and such other Punishment as by one of the said Courts shall be thought meet. 11. For as much as Printing is now become an Art and Manufacture of this Kingdom, therefore for encouragement of Printers, and prevention of transporting of Libels and seditious Books hither, it is order'd and decreed, That none imprint, or cause to be imprinted beyond the Seas, or elsewhere, or import, or bring, or consent to the bringing from thence into this Realm any *English* Books, or part of any, whereof the greater part is in the *English* Tongue, whether formerly printed here or not, under pain of forfeiture of the Books, and of such further Punishment as to one of the said Courts shall seem meet. 12. No Foreigner shall bring in, or vent here any Books printed beyond the Seas, in any Language, except such as are free Stationers of *London*, and have been brought up in that Profession, and whose whole Livelihood depends thereon, on pain of Confiscation, and other Punishment to be imposed as aforesaid. 13. None shall erect any Press or Printing-house, or let any House or Room for that purpose, unless the Owner of the said House or Room first give notice to the Master and Wardens of the Stationers Company, on pain of Imprisonment, and such other Punishment as aforesaid. 14. No Joiner, Carpenter, or other shall make any Printing-Press, nor Smith forge the Iron Work, or Founder cast Letters for it, nor bring any Letters from beyond the Seas, or buy any for Printing, unless he first acquaint the said Master and Wardens, or some of them for whom the said Press, Iron-work, or Letters are, on pain of Fine, and such other Punishment as aforesaid. 15. Twenty Persons named in the said Decree are allow'd to be Master-Printers; and as they fall by Death, or otherwise, the said Archbishop or Bishop, taking to him or them six of the High Commissioners, shall appoint others in their places, provided there be but twenty in all, besides his Majesty's Printers, and the Printers allow'd for the Universities. 16. The said twenty Printers

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Printers, and they who shall succeed them shall become bound with Sureties to his Majesty in the High Commission Court in 300 l. not to print any Book but what shall be lawfully licens'd. 17. No allow'd Printer shall keep above two Presses, unless he who hath been Master or upper Warden of his Company, who are allow'd three, on pain of being for ever disabled to keep any Press, unless upon special publick occasion he hath leave for a time from the said Archbishop or Bishop: And the Master and Wardens of the Stationers Company are forthwith to certify to one of their said Lordships what number of Presses each Master Printer hath, that so they, or either of them taking to them six other High Commissioners may take order for suppressing the supernumerary ones. 18. None shall reprint any Book (tho formerly printed with Licence) without being review'd, and new licens'd; but this without Charge to Stationer or Printer, only two printed Copies are to be brought, as is before express'd of written Copies, with what Additions the Author hath made. 19. Every Master Printer that hath been Master or upper Warden of his Company may have three Apprentices; he that is of the Livery of his Company two, if of the Yeomanry of the Company, but one: If an Apprentice run or be put away, his Name is to be raz'd out of the Hall-Book, never to be admitted again, before the Master shall take another, on pain of being disabled to use a Press, and of further Punishment to be impos'd, as aforesaid. 20. To prevent the printing in Corners, occasion'd by the want of orderly Employment for Journymen Printers, it's order'd and declar'd, That if any Journyman Printer free of the Stationers Company, of honest and good Behaviour, able in his Trade, and wanting Employment, do repair to the Master and Wardens of the said Company; they or any one of them taking with him or them one or two of the Master Printers, shall go along with and offer such Journyman, first to the Master under whom he serv'd his Apprenticeship, if living, and an allow'd Printer; otherwise to any other Master Printer, who shall be bound to employ him,

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him, and more than him if more come to his share, altho he needed no Journeyman, on pain of such Punishment as shall be impos'd as aforesaid. 21. And if the Master and Wardens or any of them shall refuse or neglect to go along with such Journeyman Printer so desiring their Assistance, he or they shall be imprison'd, and suffer such other Punishment as shall be impos'd as aforesaid: And if a Master Printer requires the help of any Journeyman not employ'd, and he refuse Employment, or neglect it when he had undertaken it, such Journeyman shall be imprisoned, and otherwise punish'd, as this Court shall think fit. 22. The Printers of the Universities are not hereby restrain'd from taking what Apprentices they please; but they shall employ their own Journeymen, and not suffer them to go for Work to the Printers of *London* (unless when upon occasion some extraordinary Workman is desir'd from thence by some Printers of *London*) on such Penalty as the Chancellor shall inflict. 23. No Master Printer shall employ any other than Freemen or Apprentices to the Trade, on pain of being disabled from keeping a Press, and of further Punishment to be impos'd as aforesaid. 24. If any Person not an allowed Printer shall set up, work at, or set Letters for any Press, he shall by order of this Court be set in the Pillory, whipt through *London*, and suffer such other Punishment as this Court shall think fit, or shall be punish'd by the High Commission. 25. The Master and Wardens of the Stationers Company, or any two licens'd Master Printers appointed by the said Archbishop or Bishop, shall have Authority to search Houses and Shops (at what time they think fit) especially Printing-houses, to view what is printing, and call for the Licence; and if none, to seize upon what is printed, together with the Offenders, and to bring them before the said Archbishop or Bishop, to take such order therein as shall appertain to Justice. 26. If the said Searchers find any Book, or part of any Book, which they suspect to contain Matter contrary to the Doctrine and Discipline of the Church of *England*, or against the State and Government, they



they are to seize the same, and bring it to the said Archbishop or Bishop, to take course therein. 27. Four Persons nam'd in the said Decree, and no more, are allow'd to be Founders of Letters for Printing; and as they fail by Death or otherwise, the said Archbishop or Bishop taking to him or them six of the High Commissioners shall appoint others in their places, provided they exceed not four in all: And if any other take upon him to found or cast Letters for printing, he shall suffer Punishment to be impos'd as aforesaid. 28, 29. No Master Founder shall keep above two Apprentices; and the same Rules to be observ'd concerning Apprentices of Founders when run or put away, and Journymen Founders out of work, as are before prescrib'd concerning Apprentices of Printers, and Journymen Printers, and upon the same Penalties. 30. No Master Founder of Letters shall imploy any but Freemen or Apprentices to the Trade, except one Boy only to pull off the Knots of Metal hanging at the ends of the Letters when first cast, on pain of being disabled to use that Art, and of such further Punishment as shall be imposed as aforesaid. 31. Whoever shall be convicted of any Offence against this or any other Decree of this Court, shall before they are discharg'd, besides their Fine and other Punishment, be bound with Sureties not to offend in the like kind again: All Forfeitures, except seditious and schismatical Books and Pamphlets which are hereby order'd to be presently burnt, and except such Forfeitures of Books as are already granted by Letters Patents, shall be disposed of by the High Commission Court, provided one Moiety be to the King. 32. No Book or part of any Book imported from beyond the Seas, shall be landed elsewhere in *England*, than in the Port of *London*, where they may be view'd as aforesaid; and hereof the Officers of the Ports are to take notice. 33. In pursuance of an Agreement between Sir *Thomas Bodley* and the Company of Stationers, every Printer, before the publick venting of any Book new printed or reprinted with Additions, shall bring to the common Hall of the said Company one



*Ann. 1627.* of the said Books, and deliver it to the Officer thereof to be sent to the Library at *Oxford*, on pain of Imprisonment, and such farther order therein as shall be thought fit.

After this Decree, *Fox* his Book of Martyrs, Bishop *Jewel's* Works, part of *Dr. Willer's*, with others formerly publish'd, and the Practice of Piety (which had been printed six and thirty times) were deny'd new Licences.

*Proclamation declaring the right of the Bishops, &c. to keep their Courts, &c. in their own Names.*

At this time the Ecclesiastical Courts, exercising their Power severely against the Puritans, fell into a general dislike, and were tax'd with an Encroachment upon the King's Prerogative: And the Judges having given their Opinions, that the Bishops might hold their Courts in their own Names, without a Patent under the Great Seal, and that the same was not necessary for authorizing their Citations, Suspensions, or other Censures, or Institutions, Inductions, or other Ecclesiastical Proceedings, nor that the King's Name or Arms should be us'd therein, but that the Statute of *Edward* the 6th is not now in force, and Bishops, Archdeacons, &c. might keep their Visitations without Commission under the Great Seal; the King issued out a Proclamation *August* 18. declaring the Right, and vindicating the Proceedings of the Ecclesiastical Courts in those Particulars.

*Company of Vintners Case.*

*They lend the King 6000 l.*

In 1632. the Lord Treasurer *Weston* demanded of the Vintners one Penny per Quart, which is four Pounds per Tun; and they refusing to pay it, the Star-Chamber decreed they should not sell or dress any Victuals in their Houses, tho they had done it time out of mind, and this was done without any Information or Bill, or being call'd to defend themselves. To avoid being censur'd for the breach of this Decree, in 1634. the Vintners lent the King 6000 l. and the King gave them leave to dress and sell Victuals till *December* following: But in 1635. and 1636. the Retailers of Wines being so far prosecuted in the Star-Chamber for breach of this Decree, as that some of them were serv'd with Process to hear Judgment; Alderman *Abel*, Master of the Company, call'd them together, and they submitted to pay

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pay the King forty Shillings per Tun, and the said Alderman with some other of their Members contracted with the King to farm it at 3000*l.* per annum for eight years. 13 Car.

*Novemb. 22.* A Proclamation issued, reciting, that upon the frequent Complaints of the Inhabitants as well within London exempt from the Freedom, as without the said City, and within three Miles of the same, of the Intrusion of Aliens and Foreigners, his Majesty had by his Letters Patents dated June 2. *Anno 12.* incorporated Tradesmen and Artificers inhabiting the said Places, as had serv'd Apprenticeships for seven years, and erected a settl'd Government among them, prohibiting all Persons to exercise any Trade, unless admitted into that Corporation by a certain time now expir'd: His Majesty notwithstanding declares, That the Governor, Wardens, and Assistants of the said Corporation shall and may proceed to admit into the said Freedom all Tradesmen and Artificers, as well Brewers, Weavers, Brick-makers, as others. Proclamation concerning the new Company of Artificers, &c.

By another Proclamation *Decemb. 20.* reciting that some of the King's natural born Subjects had abus'd his Goodness, through the ease they enjoy'd under his gracious and mild Government, by drawing his Subjects from the Church of England, which he is resolv'd to maintain, to the Romish Superstition, and to resort to Masses and other Popish Service, contrary to Law, the King forbids all Attempts to withdraw his Subjects from the Religion profess'd, declaring, That if any of the Romish Party give scandal by celebrating or hearing Mass, his Majesty will cause such Penalties to be levy'd on them as by Law are inflicted. Another against withdrawing the King's Subjects from the Church of England, and resorting to Mass.

The Sums paid this year for Ship-mony by the several Sheriffs of England and Wales to Sir William Ruffel Treasurer of the Navy, appear'd by the Accounts of the said Sir William Ruffel to amount to 196400*l.* One year's Ship-mony.

By another Proclamation *Decemb. 28.* reciting, that by Letters Patents of 22 May last, his Majesty had incorporated Edward Bromfield, then Lord-Mayor of London Soap-makers. Proclamation about the London Soap-makers.



Ann. 1637.

of London, and other Soapmakers in the said City, and impower'd them to seize all Soap corruptly or unduly made, with Inhibition to all Persons not free of and allow'd by the said Corporation to use the Art of Soapmaking; and that by an Indenture of the same date it was provided, that the Company should make good and merchantable Soap sufficient for the whole Kingdom, some to be sold at three-pence half-penny, and that made of Oil Olive at four-pence half-penny the Pound: His Majesty prohibits all others to make Soap, and the Importation of any from foreign Parts. And if any Pot-ashes be imported, they are to be brought only to the Port of London, to be sold there to the said Corporation. And to prevent excessive Prices in the Country, the Mayor, or other chief Officer, and two Justices of Peace in every City and Town shall limit the Rates: And the said Corporation were impower'd with a Constable to search all Houses, and other places, Ships, Vessels, &c. and seize all Soap not under the allowance of the said Society. And whereas the Society of Soapers of Westminster had resign'd their Letters Patents of Incorporation into his Majesty's hands, who hath cancell'd the same; nevertheless his Majesty's Pleasure is, That Sir Richard Weston, or the Soapmakers of Bristol, and other places in the Proclamation named, shall not be restrain'd from making such proportions of Soap yearly as they were before allow'd.

Lord Chancellor of Ireland  
imprison'd.

In February, Adam Viscount Loftus, Lord Chancellor of Ireland, being requir'd by the Lord Deputy to yield up the Great Seal of that Kingdom, and refusing without a particular Warrant from the King, was committed Prisoner to Dublin Castle.

The Book of Sports enjoin'd to be read in Churches.

The Archbishop of Canterbury in his Metropolitcal Visitation, and the other Bishops in their Visitations gave Instructions to proceed against such Ministers as did not read his Majesty's Declaration in the Church concerning lawful Sports on the Lord's-day, requiring the Church-wardens to present upon Oath whether the same was read; and every Minister was enjoin'd to produce a Certificate that he had read it:

And



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And Mr. *Laurence Snelling*, Minister of *Paulcray* in *Kent*, refusing to read it, was articl'd against in the High Commission Court to this effect; That within four or five years last past, he was acquainted that a certain Book, entitul'd, *The King's Majesty's Declaration for Lawful Recreations after Evening-Prayer on Sundays and Holidays*; was commanded by his Majesty to be read by all Ministers in their Parish-Churches: That the said *Laurence Snelling* was 20 November 1633. presented before Dr. *Wood* Chancellor of *Rocheſter* his Ordinary for refusing to read it, who admonish'd him to read the same within three weeks: That 11 Decemb. he was again convented before his said Ordinary, and personally admonish'd in Court once, twice, and thrice, but refusing, was suspended *ab officio & beneficio*, and so continues: That 3 April 1635. he was in Court judicially admonish'd once, twice, and thrice by his said Ordinary, to read the said Book, but refusing was excommunicated, and so continues: That he hath oftentimes omitted to read the Litany, and other parts of Divine Service, and to wear a Surplice, and hath not bow'd at the Name of Jesus. To these Articles Mr. *Snelling* pleaded the Laws of God and of the Realm, the Authorities of Councils, Fathers and late Writers; that the Declaration was not inroll'd in any Court, nor under the Great Seal, as all Proclamations and Briefs to be read in Churches are: That there was no Command from the King it should be read in Churches, nor any Punishment threaten'd or prescrib'd for not reading it; nor any Authority given to any Archbishop, Bishop, High Commissioners or others to suspend or punish any Minister for not reading it: That the said Declaration is merely civil, and not enjoyn'd by any Ecclesiastical Canon or Authority; nor have any Ecclesiastical Judges cognizance of it, nor is the not reading of it an Offence within the Statute of 1 Eliz. ch. 1. whereby the High Commissioners sit. But the High Commissioners would not accept of this Answer, till some part of it was expung'd; and then the Cause coming to be heard, the High Commission order'd,

13 Car.  
Mr. Snel-  
ling excom-  
municated  
and depri-  
ved for re-  
fusing.

*Ann. 1637.* That unless Mr. *Snelling* read the Declaration, and did corporal Reverence at the Name of Jesus between that and the second Court-day of the next Term (to which he was then personally admonish'd) he should be depriv'd of his Rectory of *Pauleray*: And that he might safely repair to his Church, Dr. *Wood* was order'd to absolve him from the Sentence of Excommunication; in case he desir'd it, and took the usual Oath *de parendo, &c. & standi mandatis Ecclesie*: But Mr. *Snelling* refusing to read the Book of Sports, &c. was depriv'd, and continu'd excommunicate: About the same time the Bishop of *Norwich* pressed the Book of Sports upon his Clergy, and suspended and excommunicated some of them for refusing to read it: But at length the Ministers of his Diocese (as appears by his Certificate) all conform'd, being about 1500, saving thirty, or thereabouts.

The Ministers of  
Norwich  
Diocese  
conform.

*St. Gregory's Church.* The Inhabitants of *St. Gregory's* Parish near *St. Paul's* Church not having comply'd with the former Orders of the Board, in taking down their Parish Church, which was an Impediment to the repairing and perfecting of that Cathedral; the Council 11 *February* order'd the Parishioners to take it down by the last of *March* then next. And the Parishioners insisting upon the difficulty of procuring a fit place for erecting a new Church within their Parish, and their disability to undergo the charge of building it; the Council the last of *February*, as to a fit place for a new Church, refer'd them to the Directions of the Bishop of *London*, Lord Treasurer, and the Lord *Cottingham*: And if the Parishioners alledg'd that they were unable to erect a new Church, the Council left it to their Election, whether they would build one, or be assign'd to one or more Parishes, as the Bishop of *London*, Lord Treasurer should think fit, until they erect a new Church.

*Information against John Lilburne and John Warran for printing and publishing the News from Ipswich, and other seditious Books contrary to the said late Decree of that Court, they were brought to the Office to be examin'd upon Interrogatorys, but refus'd to take the Oath.*

Information  
against  
John Lilburne  
and  
John Warran  
They refuse  
the Oath.



Oath, terming it an Oath *ex officio*, and insisting that no freeborn *English*-man ought to take it, none being bound by Law to accuse himself; whence *Lilburne* was ever after call'd Freeborn *John*: And they being brought to the Bar of that Court 9 *February*, and again refusing to take the Oath, it was declar'd, that unless they took their Oaths, and yielded to be examin'd by next Monday night, the Court would proceed to censure them: And they persisting in their refusal, the Court 13 *February* censur'd them accordingly, which Sentence was to this effect, viz. *And are*  
 After recital of the former Proceedings, and of the Endeavours their Lordships had us'd to draw them to Conformity, the Court declar'd them guilty of a high Contempt, and an Offence of dangerous consequence and evil example in refusing to take a legal Oath, without which many exorbitant Offences might go away undiscover'd and unpunish'd; and therefore decreed, That the said *Lilburne* and *Warton* should be remanded to the Fleet, there to continue until they conform'd, that they should pay 500*l.* apiece to the King, and before Enlargement be bound to their good Behaviour: That *Lilburne* should be whipt through the Streets from the Fleet to the Pillory, to be erected where the Court should direct, and he and *Warton* to be set in the Pillory. Which Sentence was on the following 18 *April* rigorously executed on *Lilburne*, who when he was whipt at the Cart, *Lilburne* and stood in the Pillory, utter'd many bold Speeches whipt, against the Bishops, and when in the Pillory took Copies of several Pamphlets (said to be seditious) out of his Pocket, and toss'd them among the People; whereof the Court of Star-chamber then sitting having notice, order'd him to be gagg'd during the residue of the time he was to stand in the Pillory, which was done, and when he could not speak he stamp'd with his Feet. The same day they likewise order'd, that for the Speeches he utter'd, and Copies of Books he scatter'd, he should be laid alone with Irons on his Hands and Legs in the Wards of the Fleet, where the meanest sort of Prisoners are put; that none resort unto him; that all Letters, Writings and Books brought

13 Car.

And are  
sentenc'd.

Gagg'd,

And laid in  
Irons.



*Ann. 1637.* brought to him be seiz'd, and deliver'd to the Court, whom the Warden was to inform of all Persons who came to visit him: That for the future the Garments of all who are to receive Corporal Punishment should be search'd, and all Writings and other things taken from them, and their Hands should be bound while under Punishment. They order'd also, that the Attorney-General and Solicitor-General examine what Speeches *Lilburne* at that time utter'd tending to Sedition, or to the Dishonour of that Court, or any Member thereof, and who heard them? What Books he then dispers'd, and whence, and of whom he had them? with such other material Circumstances as they should think fit, and certify what they find, and their Opinions to the Board. Sometime after *Lilburne* lying with double Irons on his Feet and Hands in the inner Wards of the Fleet, a Fire happen'd in the Prison near to the place where he was, which gave a jealousy that he being desperate had set the Prison on fire; whereupon the Inhabitants without the Fleet and the Prisoners within, all cry'd out, Release *Lilburne*, or we shall be burnt, and made the Warden remove him into a place of more Air. He remain'd in Prison till the first long Parliament begun *Is releas'd.* *Novemb. 13. 1640.* and then was releas'd. This *John Lilburne*, after he had serv'd the Parliament in the War, was imprison'd by them for speaking Words, and publishing Books against them, terming them Usurpers, Enemies to *Magna Charta*, &c. At length they banish'd him on pain of Death if he return'd, which he did, and was thereupon try'd for his Life, and acquitted by his Jury with the Acclamation of the People then present. He writ many Books against those then in Power; insomuch that *Henry Martin* said of him, That if there were none living but himself, *John* would be against *Lilburne*, and *Lilburne* against *John*. He dy'd a Quaker, and was buried in the Churchyard near *Bodlam*, about 4000 Citizens and others accompanying his Corps to the Grave.

*His Judges impeach'd.* It may not be unacceptable to the Reader some what further to digress here in point of time concerning

cerning this Person: When in 1640. the Impeachment of the House of Commons was carry'd up to the House of Peers against his Judges in Star-chamber, it was thus urg'd by them who manag'd the same; That Imprisonment is the burying of a Man alive, which is worse than Death: *Nondum tibi cedit in gratiam.* To put a Man out of his pain was a favour among the *Romans*: Close Imprisonment was never us'd to the Primitive Christians; for then that Charge in Scripture might be answer'd, *I was in Prison, and ye visited me not*: It presumes a famishing to death (a Punishment unknown to the *Romans*) and this Man might have been so, as hath been sworn. Imprisonment till the Parliament releas'd him, might have been for ever: Whipping is painful, shameful, and for Slaves. 11 *Eliz.* one *Cartwright* brought a Slave from *Russia*, and would scourge him, for which he was question'd, and it was resolv'd *England* was too pure an Air for Slaves. And it was often resolv'd, even in Star-chamber, That no Gentleman was to be whipt for any Offence whatsoever; besides, the whipping in this case was extreme severe: That *John Lilburne* was a free Citizen of *London*, but descended from an antient Family in the North, a Town in *Northumberland* still bearing the Name of *Lilburne*, or rather *Le-Iste-borne* by reason of the Water that runs about it: Their Arms are three Water-Budgets, an antient bearing. He was whipt from the Fleet to *Westminster*, about a Mile, and had 500 Blows (one swears a great many more) with a treble-corded Whip with Knots. Among the *Romans* no Malefactor had above forty Stripes, and with three Thongs. *St. Paul* had 39 Stripes, which was but 13 Blows. And at *Orleans* in *France*, a Priest having told a poor Maid that *St. Francis* would come and lie with her such a night, at which time he feign'd himself *St. Francis*, and was taken in bed with her: The King's Advocate pressed he might have 14 Blows with a three-corded Whip, but the Judges would allow but 13, and here *Lilburne* had three times 500 Stripes in 500 Blows. As for the Pillory it was first invented for *Mountebanks* and *Cheats*, to exalt them



*Ann. 1637.* them in the same kind as they had exalted themselves upon Banks and Forms to abuse the People: And gagging is barbarous and beastly; for Man differs from a Beast *ratione & oratione*. To sum up all: By Imprisonment he was made a dead Trunk, by Whipping a Rogue, by Pillory a Cheat, and by Gagging a Beast: They had better have hang'd him outright, &c. And afterwards the House of Lords in 1640. on hearing this Cause of *John Lilburne*, order'd, That his Sentence and all Proceedings thereupon should be vacated, and taken off the File in all Courts, as illegal, unjust, against the Liberty of the Subject, the Law of the Land, and *Magna Charta*: And the said *Lilburne* was discharg'd therefrom; and that all Process in the Exchequer for levying his Fine should be cancell'd and made void.

*His Sentence declar'd illegal.*

*Mr. Claypoole* being by a Warrant brought up for some Misdemeanors in the Collection of Shipmony; *Mr. Attorney General* was order'd to examine him, and to prosecute him in the Star-chamber.

*A Discourse concerning the Court of the Star-chamber.* Upon occasion of the exemplary Punishments inflicted by the Star-chamber on *Mr. Prynne*, *Mr. Lilburne*, and others before mention'd; it will not be unseasonable to say something of the Nature and Privilege of that Court, abstracted out of a Treatise written by a Person well acquainted with the Proceedings there. This Court is taken little notice of either in the Reports, or other Books of Law: *Sir Thomas Smith* in his Commonwealth hath glanc'd upon it, and *Lambert* treats of its Jurisdiction: But the reason why there is so little mention of it in the Law-books may probably be, for that the common Lawyers look'd upon it as an Encroachment of Monarchy on the Laws of *England*, and the Subjects Liberties confirm'd by *Magna Charta*. In the antient Year-books it is call'd *Camera Stellata*, not because the Court is adorn'd with Stars, but for that it is the Great Court; tho' it may fitly enough be call'd the Star-chamber, the Members of that Court having no Power or Influence but what they derive from the King; no more than the Stars (in the common opinion) have any



any Light, but what they derive from the Sun. And when the King their Sun appears, the shining of these Stars is put out, they having no Power in the presence of the King to pronounce a Sentence, but only to give their Advice; as was done when King *James* sat there in a Chair of State, elevated above the Table, where the Lords sat for five continu'd days in the great Case of the Countess of *Exeter* against Sir *Thomas Lake*: The King only then pronounc'd the Sentence, and that with more Accurateness, Eloquence and Judgment than any of his Progenitors had done before him. It is plain, that this Court was not founded by the Statute of 3 *H. 7.* and so it was adjudg'd by the Chief Justices *Coke* and *Hobert* in the Cause between the Earl of *Northumberland* and Sir *Stephen Proctor*, and that that Statute extendeth not to this Court: But the Lords authorized by the Act may at any time or place proceed to determine the Matters therein specified: 28 *Affiz.* 52. *Coram Nobis & Concilio*, is resolv'd to be *coram Rege in Camera*. In the antient Laws of *England* we read of three Councils, *Commune*, *Magnum & Privatum*; *Commune Concilium* is the Parliament, as appears by the Writs founded upon any antient Statute-Law, which begin thus, *Cum per Commune Concilium regni nostri provisum*. *Magnum Concilium* is the Court of Star-chamber, and so is intended by the Statute 32 *E. 3. ch. 18.* That Informers shall be brought before the Chancellor, Treasurer, and Great Council to find Sureties. And the Statutes of *R. 2.* of Complaints before the Council, and 13 *H. 4. cap. 7.* for certifying Riots, intend the Star-chamber: And in the Statutes of 19 *H. 7. cap. 18.* and 33 *H. 8. cap. 1.* of false Tokens, and 4 *Ed. 5. Plu* and *Mary*, of secret contracting with young Maidens, it is expressly call'd the King's Council in the Star-chamber. *Privatum Concilium* is the King's Council of State, which is distinct from the Great Council; for altho' all of the Privy Council are of the Great Council, yet some may be of the Great Council who are not of the Privy Council. The Warden of the Fleet constantly attended in this Court, which the Author of this Treatise extols for the

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the Greatness and Learning of its Judges, for the usual Subjects of their Debates, the Defence of Honour and Honesty, for the large Scope it gives to a good Orator, for their proceeding *ram lento pede*, without Precipitation, and upon double and certain Proofs. The Lord Chancellor or Lord Keeper is the supreme Judg of this Court, all the other Lords speak with their Heads uncovered, but he with his Head cover'd: He commands the Chief Justice or any other Judg to sit there at his pleasure: He is the Mouth of this Court, to give Rules and Orders, and hath a great Prerogative above the other Courts at *Westminster*, where if the Judges Opinions be equally divided, there can be no Judgment: But if in this Court there be an Equality, he hath the casting Voice, as the Speaker hath in the Parliament: If he condemn or fine the Plaintiff or Defendant, the best for the King's Profit shall be taken: But where his Voice in equality acquits, his Judgment weigheth down the King's Profit, and the Party shall stand acquitted: And so was Sir Stephen Proctor by the Voice of Chancellor *Elsmore*. This Court is for the most part compos'd of Dukes, Marqueesses, Earls, Barons, Archbishops and Prelates, Counsellors of State and Judges. In the Reign of *H. 7.* and *H. 8.* their number was near forty, in Queen *Elizabeth's* Reign oftentimes thirty, but since lessen'd; and yet sometimes in King *Charles* his Reign twenty four and twenty six. Archbishop *Whitgift* constantly was for maintaining *Magna Charta*, that none ought to be fin'd but *salvo contentemento*, and commonly in his Sentence mitigated the Acrimony of those that spake before him; and the slavish Punishment of whipping was not heard of among them: But when this Court came to be delighted with Blood, and nothing would satisfy some Clergymen but cropt Ears, slit Noses, branded Faces, whipt Backs, gagg'd Mouths, Dungeons, Banishment to remote Islands, eternal Separation from Wife and Children; then began the *English* Nation to lay to heart their slavish Condition, if this Court continu'd in its Greatness.



For antient Precedents of the Proceedings of this Court, 55 H. 3. the Defendant was question'd for Fortune-telling, 30 E. 3. the Plaintiff committed *pro falso clamore*, 40 E. 3. the Defendant order'd to deliver all the Deeds of an Estate, 43 Book Assiz. Pl. 38. fin'd for debasing the Price of Wool, 2 R. 2. cap. 11. *Scandalum magnatum*, and 12 R. 2. Publishers of false News and Tales (*non obstante statuto*) punish'd here: 17 H. 6. *Brocket* a Clerk of the Exchequer for rasure of a Record forejudg'd to have access for writing in the King's Courts of Record. The same year *John Ford* for packing of Wool in broad Cloths, which he sold to a Dutch-man who transported them, committed and set on the Pillory. 31 E. 6. *Ralph Lord Cromwel* acquitted there of suspicion of Treason: 8 E. 4. A matter of Title touching *Peter Corne*: 20 E. 4. The Defendants punish'd for turbulent Election of their Aldermen, Constable, &c. 1 H. 7. fin'd five Pounds for a Contempt to the King; 2 H. 7. fin'd forty Marks for a Riot. For Precedents of later times, 1 Eliz. The Defendant fin'd 100 l. for executing the Office of High-Sheriff without being sworn; and 100 l. for making a false Return of a Writ for Election of Knights of the Shire. 2 Eliz. The Defendants sentenc'd for riotous taking away of a Prisoner taken in the Wars: The same year committed and fin'd for a Riot, and the principal Defendant to pay her Servants Fines: 3 Eliz. sentenc'd to stand in the Pillory for saying he could ever find an *Oliver* for a *Rowland* among the Queen's Servants to bear him out: The same year a Commission to put and continue the Party in Possession: The same year committed and fin'd for disobeying the Queen's Process: The same year the Plaintiff to stand in the Pillory with Papers *pro falso clamore*: The same year a Person prosecuted for hearing Mass: 4 Eliz. an Information for not inquiring after, or punishing a Riot: The same year Lord *Howard of Bindon* for calling the Plaintiff's Witness Knave, fin'd 100 l. The same year no Process to be awarded upon a Bill for Perjury for Evidence to a Jury where a Verdict pass'd, unless the Justice before whom it was tried

13 Car.  
Precedents  
antient and  
modern of  
the Pro-  
ceedings of  
that Court.



*Ann.* 1637. was made privy: 8 *Eliz.* Orders for regulating Printing and Selling Books: The same year the Defendant dismiss'd, and the Plaintiff fin'd 10 *l.* and to ride in a Cart about the City, for keeping ill Orders, and disobeying the Defendant then Constable. 9 *Eliz.* The two Chief Justices certify'd that this Court might hear Riots done within the County Palatine of *Durham*, notwithstanding the Bishop had *Jura Regalia*: 14 *Eliz.* the Defendants prosecuted here for Forgery: 35 *Eliz.* the Plaintiff dy'd a day or two before the Cause was to be heard; but Mr. Attorney prosecuted the Cause at the day without Bill of Revivor, or *Subpoena ad audiendum judicium*: The same year the Defendant sentenc'd here for delaying the Execution of a Prisoner convicted, notwithstanding he was sentenc'd in the Marches of *Wales* for the same Offence: 36 *Eliz.* the Defendant for beating his Grandfather sentenc'd to be whipt before the Picture of his Grandfather, who was unable to come to the place appointed: 13 *Jac.* committed for arresting the Plaintiff, when he came to serve him with the Process of this Court: 14 *Jac.* for preferring a scandalous and untrue Petition to his Majesty, and for a Libel, fin'd to the King, to stand in the Pillory, be bound to his good Behaviour, and 200 *l.* Damages to the Plaintiff: The same year sentenc'd for a Practice to retract under their hands their former Testimony: 12 *Jac.* for impounding the Plaintiff as a Beast: 13 *Jac.* A *ne exeat Reg.* granted against the Defendant, for that he swore he would depart the Kingdom rather than he would marry: 5 *Jac.* Divers Defendants charg'd with Forgery; two of them who procur'd the Deed to be drawn and engross'd fin'd, and to stand in the Pillory; he that drew the Deed, and he that engross'd it acquitted, and the two other Defendants order'd to pay them Costs.

R. Powel  
question'd  
for a Ser-  
mon, &c.

One *Richard Powel* Clerk having preach'd a Sermon at which his Auditors were much scandaliz'd, was brought up to *London* in Custody of a Messenger, together with Examinations taken by Sir *Richard Samuel* a Justice of Peace (I suppose) of *Northamptonshire*; and other Testimonies concerning the same; and

13 Car.

And is banish'd the Court.



Ann 1627. of Linchlas Inn Esq; of Counsel with Mr. Hamden,  
 began: He open'd the Case thus. Pascha 13 Car. a  
*Scire facias* issued to the Sheriff of Buckinghamshire,  
 reciting, That several Sums mention'd in a Schedule  
 therunto annex'd by a Writ under the Great Seal,  
 (dated 4 Aug. 11 Car. cess'd upon several Persons for  
 providing a Ship of War, were not paid; and that by  
*Certiorari* the Sums and Persons assess'd were certi-  
 fied into Chancery, and from thence by *mittimus* sent  
 into the Exchequer: The Sheriff is commanded  
*scire facere* to the Persons to appear in the Exche-  
 quer, to shew Cause why they should not pay the  
 Sums assessed; the Sheriff returns *quod scire fecit*  
*John Hamden* Esq; who being assess'd twenty Shillings  
 had not paid it: Mr. Hamden appear'd and demanded  
*Oyer* of the *scire facias*, Schedule, Writ of 4 Aug.  
*Certiorari* and *Mittimus*, and of their Returns, and has  
 thereupon demur'd. The Writ dated 4 Aug. 11 Car.  
 is the ground of all, and from thence must be fetch'd  
 all is to be said for or against this Client: It com-  
 mands to provide a Ship of War with 180 Men,  
 Guns, Ammunition, Tackle, Victuals, and to bring  
 her to Portsmouth by March 1. and from that time  
 to provide her of Victuals, Mariners, Wages, and  
 other Necessaries for twenty weeks, *pro defensione*  
*Regni, tuitione Maris, securitate Subditorum & salva*  
*conductione Navium*, the Sea being infested with Pi-  
 rats; and for this end to assess each Person in the  
 County *secundum statum & facultates*, to distrain for  
 these Cesses, and imprison the Refractory. And this  
 is inforc'd in the Writ: 1. From Custom, that the  
 Sea *per Gentem Anglicanam ab olim defendi consuevit*.  
 2. From a common ground of Equity, *Omnis defensionis*  
*quod omnes tangit, per omnes debet supportari*.  
 3. From the Common Law, *Prout per legem & con-*  
*suetudinem Regni Anglia fieri consuevit*. 4. From the  
 Subjects Allegiance, the Command being, *In fide &*  
*ligeantia quibus nobis tenemini*. All which put toge-  
 ther, declare the main end of the Writ to be the De-  
 fence and Safety of the Kingdom, a thing so necessa-  
 ry, that it must needs be legal: for the Policy of the  
 Law cannot be so short sighted, as when it provides  
 against



against the Wrongs and Pressures that might be offer'd from the particular Members to each other, it should leave the whole to the Violence and Will of Enemies: So that while each Subject consider'd apart hath a real Property in his Lands and Goods, yet consider'd all together, they have only *precariam possessionem*, Tenancy at Will, in respect of Foreigners. But this cannot be, for the Law foresees and prevents Dangers afar off; it will not suffer an Alien to purchase Lands here for the possibility of danger that might ensue. 13 Eliz. Dyer 298. Dr. Story conspir'd beyond Sea with a Foreign State to invade the Realm; adjudg'd High-Treason, tho' no Attempt made. 21 E. 1. fo. 23. and 45 E. 3. 25. a Man kill'd a Captain going with twenty Men at Arms to the Wars, adjudg'd High-Treason: So (by some Opinions in Print) to burn or sink any of the King's Ships. In this case the Question is not *de re*, for the Safety of the Realm must be provided for; neither *de personis*, for the Burden ought to lie on all, because the Lives and Estates of all are concern'd: *Qui sentit commodum sentire debet & onus*. By the Commissions of Sewers, to the repairing of a Bank, Cawsey, River, or other Sewer, to keep out the Inundations of the Sea or fresh Waters, all within the Level are chargeable, *pro rata seu quantitate portionis tenure, pastura vel piscaria*. So that the Question is not whether his Client could be exempted from the Charge? nor is it any Question, but the Law hath intrusted his Majesty with the care of this Defence; in him is all legal Jurisdiction both Ecclesiastical and Civil: So it is in case of foreign Defence, even by *Jus Gentium*. The Text saith, the People desir'd they might be like all other Nations, by having one to judg them, and go out before them, and fight their Battels. The King calls the Kingdom *Regnum nostrum*, and every City and great Town *Civitatem & villam nostram*, not *quoad Proprietatem*, but *quoad Protectionem & Defensionem*: and this is a Duty of the Crown, or *pars Ministerii*, which in many of the antient Commissions of Sewers before the Statute of 23 H. 8. is thus express'd, That the

13 Car.

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*strictus ad providendum salvationi Regni circumqua-*  
*que*: And this he is bound to by the Law of Oecono-  
 micks, as he is *Pater Familia*. He only hath Power  
 to make War and Peace, and hath the *Armatam*  
*potestatem* wholly in his hand: No Subject can order  
 the way or means of Defence, nor without his Com-  
 mission or Licence can set forth Ships to Sea for that  
 purpose; nor, unless upon sudden Invasion, or such  
 emergent cause, erect a Fort, Castle or Bulwark, or  
 draw Soldiers together, or make general Collections  
 of Mony, tho with the Subjects Consent. He is *Ge-*  
*neralissimo*, and as the Sheriff hath the *Posse Comitatus*,  
 so he hath the *Posse Regni*; he is the sole Judg of  
 danger from Foreigners, and how to prevent it; and  
 to come nearer, may by Writ under the Great Seal  
 command the Inhabitants of each County to provide  
 Shipping for the Defence of the Kingdom. So that  
 the Question is not *de Persona* in whom this *suprema*  
*Potestas* is lodg'd, for that is in the King; but the  
 Question is *de modo*, by what methods this Supreme  
 Power is to be us'd, and whether it hath been right-  
 ly apply'd by this Writ. The King hath a twofold  
 Power or Will, *interna* or *naturalis*, *externa* or *le-*  
*galis*; which by all the Judges of England, 2 R. 3. 11.  
 is exprest *per voluntatem Regis in camera*, and *volun-*  
*tatem Regis per legem*. And if the King's Supreme  
 Power doth not operate by proper mediums, it re-  
 mains to be only *voluntas Regis interna*: For the  
 Forms and Rules of Law are to be observ'd. The  
 King's Grant of Land without Letters Patents, or  
 without such words therein as the Law prescribes, is  
 void; and his Power must run in right Channels.  
 An Assize in the King's Bench, or Appeal of Death  
 in the Common Pleas, is *coram non Judice*, tho the  
 Writ be by the King's Command. If a Writ of  
 Execution of a Traitor or Felon be awarded by his  
 Majesty without Appeal or Inditement preceding, an  
 Appeal of Death will lie by the Heir against the  
 Executioner. The King cannot give Judgment in  
 any Court without the Assistance of the Judges:  
 2 R. 3. 10, 11. *Non aliter coram se nisi per Justiciarios*  
*suos*

*suos.* And it appears not, but that K. *John, H. 3.* and other Kings were so assisted, when they sat in the King's Bench and Exchequer. In many cases the King's Power is not sufficient without the assistance of his Parliament: If an erroneous Judgment was given before the Statute of 27 *Eliz.* in the King's Bench, he could not relieve the Subject but by Writ of Error in Parliament, nor can he out of Parliament alter the old Laws, or make new, or any Naturalizations, or Legitimizations; and yet is the Parliament his Majesty's Court too, tho in the Writ of Wast, and some other Writs it is call'd *Commune Concilium Regni*, for that the whole Kingdom is representatively there, and have access thither in all their Concerns, being all interested therein, and receiving benefit by the Laws there past: In the Summons it is call'd *Parliamentum nostrum*; in the Return 'tis, *Quod sint ad Parliamentum Domini Regis.* *Fleta*, l. 2. c. 2. calls it the King's Court: And the Pleadings there which antiently were usual, began *Queritur Domino Regi*, or *Supplicavit Domino Regi*: And Inquisitions and *venire facias* were returnable there *coram Rege in Parlamento suo*, or *coram Rege in Concilio suo*. The Patents pass'd by Parliament, and the Acts of Parliament had antiently so much of the King's Name and Stile, that, as appears in the Prince's Case, 8 *Report*, it was hard to know unless by Circumstances whether they had any thing in them of the Parliament or no; and our Acts now are for the most part said to be enacted by the King, with the Assent of the Lords and Commons. By all which it appears, that what is done in Parliament is said to be done by the King; and so is that Maxim of *Justinian*, *Quod Principi placet legis vim habet*, interpreted by the Civilians, That those Laws were call'd *Placita Principis*, tho enacted in the Senate: as when we say *ut vulgus*, that a Fine is set by the King's Court, the Law saith, it's set by the King. And there being many Cases where the King cannot communicate his Justice or Power to his Subjects without his Parliament's Assistance; it follows that the Kingly Power and Dignity doth most operate and manifest it self there, as was declar'd by all the Judges of *England*



Ann. 1637. in Parliament; 34 H. 8. *Crompton Jurid.* 10. Now this Writ which gives power to sell and alter the Property of the Defendant's Goods, not issuing from his Majesty in Parliament, for ought appears by the Record, but from his Majesty in the Chancery; or otherwise than in Parliament, the Question is whether it be erroneously issued or no? A Question which concerns not the Defendant only, but in consequence his Majesty and the whole Kingdom. He said he would state the Case, and then argue it.

He first shew'd the several ways the Law had provided for the Defence of the Realm at Land and Sea, without this way in the Writ. 1. By Tenures of Land; the Services thereby due being of two sorts, some of them Services in kind, which tend immediately to Action in times of War: He began with Knights Service, whereby every Man that holds by this Service ought to find a Man competently arm'd for the Wars: He that holds by a whole Knight's Fee to be forty days in the Service; if by the moiety of a Knight's Fee, twenty days, and so in proportion. By the Books of *H. 2. E. 1.* and *H. 6.* it appears there were many thousand Knights Fees held of the Crown; and in the Red Book it is said, it was *in ore omnium*, that in the Conqueror's time there were 30000. It may be objected, that these Services being reserved by the King, they were not instituted only for Defence of the Realm, but likewise for Foreign Wars, or other peculiar Service, which appears by the Name, it being in our old Books and Deeds stiled *Forinsecum Servitium*, and having been perform'd in *Normandy, Gascoigne, Tholouse and Ireland*, as appears by the Red Book, and many Cases in the *Institutes cap. Escuage*. To which he answer'd, That when they who held by this Service enfeoffed others, besides the Services they reserved to themselves, they commonly made provision in the Conveyance for their acquittal against the King, and the Feoffee took the whole Burden upon himself: Examples of this kind are in the Book of Knights Fees of *H. 2.* where the Tenants by Knights Service certify by how many Knights Fees they held; and then

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is added, *defendit*, &c. against the King by such and such *Milites Feoffatos*: And in those Feoffments, after the Reservation to the Feoffor, was this Clause, *Et faciend' inde forinsecum servitium*, with regard to the Service reserv'd to the Feoffor. *P. 49. H. 3. Com. p. 31. E. 1. Ro. 32. Dor. Com. Hill. 33 E. 1. Ro. 52. Dor.* In those Cases Cornage, which is to wind a Horn within the Realm, is call'd *Servitium forinsecum*; and Castleguard at *Bamburgh Castle* in *Northumberland* is call'd so too. The second part of the Objection he would answer afterwards. That this Service was instituted for the Defence of the Realm, appears by the care the Law hath to preserve it: for if the Lord purchase part of the Land, yet the whole Service remains. The Mischief express'd in the Statute of Mortmain, *7 E. 1.* is, that the Services for the Defence of the Realm, were by those Conveyances of Lands to Religious Houses left unperform'd: And that Statute provides for the increase of those Services; for if the Lord enter not within the year and day, the King shall enter, to enfeoff others by certain Services, *nobis inde ad defensionem Regni nostri faciendā. H. 1.* by his Charter enroll'd in the Red Book in the Exchequer, and cited by *Matthem Paris* in *H. 1.* freed all Knights Service Lands from Gelds and Taxes, to the end *quod apti & parati sint ad servitium meum, & ad defensionem Regni mei*: *Bracton, lib. 2. 36, 37. Britton, fol. 162. 35 H. 6. 41. 8 Rep. fol. 105. Talbot's Case; 6 Rep. f. 2. Inst. Pl. 103. Co. Preface to the 9th Rep.* And 'tis observable, That these Services are not created *ex provisione hominis*, but *ex provisione legis. 33 H. 6. 7. 6 Rep. fo. 7. Wheeler's Case; 9 Rep. fo. 123. Lane's Case*: If the King grants Lands without reserving any Service, the Patentee shall hold the Land by Knights Service *in Capite*. The Books of *24 E. 3. 65. Stamsf. Prerog. fo. 10. Instit. Pl. 73.* says, The first Kings of this Realm had all the Lands of it in their own hands; which appears by this, That all Lands are held mediately or immediately of the Crown; and in the transferring of those Lands, the care of the Law was, That all should by their Te-

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nures be made liable to the Defence of the Kingdom: And Knights Service being only for forty days, and for the Defence of the Realm only, other Tenures were reserv'd for particular Services, as *Grand Serjeanties*, some whereof, as is observ'd in the Institutes, f. 106. were for Service of Honour in time of Peace, others for Military Service, as to carry the King's Banner, to summon the Tenants *ad exercitum*, some to be of the Vanguard, some of the Rear, &c. And Tenures by Cornage and Castle-guard are of this kind; of these Castles, *Camden* p. 815. observes, there were 1115 in *H. 2d's* time. All these Services of Grand Serjeanty, *Britton* f. 164. and *Fleta lib. 3. cap. 16.* say, were for the Defence of the Realm, Petty Serjeanties likewise there were, not to be perform'd by the Bodies of Men, but for finding of Arms for the Wars. That these Tenures were for the Defence of the Realm, appears in that there were most of them in the places of greatest danger. All along the Coasts of *Kent* and *Sussex*, the nearest to *France*, are the Five Ports, who have Jurisdiction within themselves, and divers other Privileges to incite People to live there. *Dover* Castle, the Key of the Kingdom, hath near 200 Tenures by Castle-guard, besides other Tenures for repairing the Castle, as appears by the Quire of *Dover* in the Exchequer, and by another Record added to it; and that in time of War the King is to find there 1000 Foot, and 100 Horse. For Defence against *Scotland* the County Palatine of *Durham* was erected: And in *Cumberland*, *Northumberland* and *Westmoreland* were more Tenures for Defence of the Realm than in any of the Inland Counties. 31 E. 1, Ro. 32. Dor. It was found by Inquisition return'd into the Exchequer, that every Lord of a Town within *Northumberland* held by Cornage, when the *Scots* enter'd the Realm. *Camden Brit.* p. 794, 799. mentions the great number of Petty Baronies and Castles all along those Marches; which *Britton* f. 87. and *Instit.* f. 73. say were instituted for the Defence of the Realm. In the Marches of *Wales* the County Palatine of *Chester*, and several Baronies were erected to oppose the *Welch* Inva-

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Invasions: And the Lords Marchers had the third Penny of all the Spoils in War, as was adjudg'd in Parliament, 20 E. 1. B. R. Ro. 123. The Prisoners also belong'd to the Takers. *Trin. 25 E. 1. Ro. 28.* The King releas'd three *Welch* Prisoners taken by *Roger Knownell*; and adjudg'd, *Hill. 25 E. 1. Ro. 11.* *Dor.* the King should pay him forty Pounds in Recompence. He said, his Majesty was in actual Possession of these Military Services by Wards, Marriages, Reliefs, Licences, and Forfeitures for Alienation and primer Seisin, as Fruits of them: And by 35 H. 6. 41. *Britton* 162. the Profits of Wards and Marriages are to be spent as well in Wars for Defence of the Realm, as for bringing up the Ward.

The Execution of this Trust by Tenures was extended likewise to the Defence of the Sea: In Dooms-day, *Lewes* in *Sussex* holds by this Service, *Quod si Rex ad mare custodiendum suos mittere voluisset*, they paid so much Mony. In *Colchester* every House to pay Sixpence per annum, *ad victum soldar' Regis*, *ad expeditionem terra vel maris*. *Warwick*, *Si Rex per mare contra hostes suos ibat*, was to find four Boatswains: *Salisbury* to pay so much Mony, *ad pascendum Bussecorlos Regis*, which *Florentius* interprets *ministros nauticos*: *Glocester* to find such a weight of Iron *ad Claves navium Regis*, with many others in that Book: Register, f. 2. A Tenure to find five Ships *pro omni servitio*. In the *Iter Roll* of *Essex* 13 E. 1. Ro. 7. *Malden* to find one Ship. In the Book of Serjeanties of E. 1. time, *Killingburn* in *Kent* to find one Ship. *Fulk Caudry* held the Manor of *Padworth* in *Berks*, *per serjeantiam inveniendi servientem*, to perform Sea-Service: *Bra. p. octavo E. 2. Rot. 40.* *William Dyer* in *Sussex* to find a proportion of Cordage. *Iter Cantie*, 21 E. 1. Rot. 46. *Solomon de Campis* holds *per serjeantiam tenendi caput Regis*, when he is at Sea. And so *Rot. 39.* another in the same *Iter-Roll*. In the Quire of *Dover* and the Patent-Roll of 7 H. 7. the five Ports and their Members are to find fifty seven Ships, and in every Ship twenty Men and a Master; they are to continue fifteen days at their own Charge, and afterwards

the King is to pay the Master and Constable 6 *d.* per day, and the rest 3 *d.* per day: And commonly when the Land-Service was summon'd, these likewise were summon'd for the Sea; commanding them to be at the place *cum toto servitio vestro quod nobis debetis*; which shews it to be a Tenure. That these Services are for the Defence of the Realm as well extraordinary as ordinary, appears by the Parliament-Roll 13 *E. 1. pars. 1. num. 11.* where 'tis declar'd, That the five Ports, and other great Towns and Havens are enfranchis'd, *pur estre gard & mure inter nous & aliens*, if they endeavor *nostre terr'* enter.

Besides these Tenures in kind, there were other Tenures created for Defence of the Kingdom; whereby the King was to be supply'd with Money for that purpose. In the Black Book in the Exchequer, *lib. 1. cap. 7.* it's said, that in *Primitivo Regni Statu ad stipendia & donativa militum & alia necessaria ex castellis*, and other Lands in quibus *Agricultura non exercebatur, pecunia numerata successebat*; whence it might be colourably enough infer'd, that where upon Grants from the Crown a Rent only was reserv'd, that Money was to be employ'd for Soldiers Wages, or other necessary Affairs of the Commonwealth. But 'tis plain, that all Men were not equally inheritable to freedom of Body, or propriety of Lands or Goods; for there were three Ranks: 1. Villains, whom the Lord might imprison at his pleasure, and as to his Lands and Goods, might tax him *de haut & de basse*. 2. Freeholders by Knights Service or free Socage, who have absolute Freedom in both. 3. Tenants in antient Demesne, who had absolute Freedom in their Persons, not taxable at Will, but taxable for the Defence, or other necessary Affairs of the Realm, without Consent in Parliament: These have not a free Estate, for if it be question'd whether the Land be antient Demesne, the issue is, whether it be antient Demesne, or Frank Fee; nor have they any Vote in Election of Knights for the Parliament, nor are contributory to their Wages or Subsidies, *N. B. 79. and 14.* It is often disputed whether they are bound by an Act of Parlia-

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Parliament unless especially named; nor can they sue at Common Law for what concerns the Freehold but only within themselves, and therefore *Bracton* f. 209. calls them *Villanos privilegiatos*. The same it is of Burgeſſes within Cities and Boroughs; and therefore the Statute of *Merton* makes it a Disparagement for the Lord to marry his Ward to one of them. *N. B.* 7. No Affize will lie for ſuch Lands: But they may be devis'd as a Chattel, and were likewise antiently taxable without their Consent in Parliament; and by the Statute of *1 E. 2. de militibus*, for ſuch Land and antient Demefne none is compellable to take the order of Knighthood. Now all our Books agree, That the Tenants in antient Demefne were to plow and manure the King's Lands, being his Demefne. And he had ſeen a Manuscript, wherein it was mention'd, that the Corn and Victuals ariſing thereby were to ſtore the King's Garifons and Caſtles, there being at the Conqueſt above 1000 of theſe Mannors in the King's hands. Now thoſe antient Demefne and Borough Lands were talliable without Consent in Parliament (which no Man will deny, it appearing frequently in the Exchequer-Rolls, Parliament-Rolls and Patent-Rolls) yet what he inſiſted on was, that they were not talliable at the King's will and pleaſure, but only for the Defence and other Neceſſities of State. *N. B.* f. 15. 49 *E. 3.* 22. not talliable *de haut & baſſe*, as Villains are. *Lib. Parliament.* f. 112. *Taliare & rationabile auxilium dare pro neceſſitate*: *N. B.* 14. *Pro grand cauſe.* *Rot. Parliament.* 6 *E. 3.* upon the Commons Petitions, Commiſſions to tax them were revok'd, and the King not to aſſeſs them but in ſuch manner, *come a d'eſtre fait en temps de ſes Anceſtors*.

Theſe Tenures are the firſt way the Law hath provided for the ſafety of the Realm: But the Law not looking on theſe as ſufficient, hath, 2. beſides the Honours, Mannors, Caſtles and other conſtant Revenues of the Crown, for ſupporting the ordinary Charges, appointed unto it divers Prerogatives for the extraordinary, and for this of the Defence of the Realm, as one of the chiefſt: For in his Maſteſty is a double



Ann. 1637. double Capacity, natural and politick; all his Pre-rogatives are *jure Corona*, and *patrimonia & bona publica*, to be imploy'd for the common good. In the case of Mines, the King hath Treasure trove, and Gold and Silver Mines to defend the Kingdom. *Instit.* Title Socage, f. 28, 131. *Thesaurus Regis est fundamentum belli, & firmamentum pacis*: And this is the reason why Escheats, Wardships, Customs, and such like Profits are by the Statute 14 E. 3. cap. 1. declar'd to be spent for the Safeguard of the Realm, more than the Profits of the King's Mannors and Lands; and is the reason of the difference made in the *Coia M.* 3 R. 2. *Lond.* between *Rectas praeventiones Regni*, which by the Advice of the Council were to be spent in the Household, and the other Profits of the Crown to be spent *circa defensionem Regni*. In the Parliament-Roll of 6 R. 2. n. 42. the Commons petition'd, that the King would live of his Revenues, and that Wards, Marriages, Reliefs, Escheats, Forfeitures, and other Profits of the Crown may be spent for Defence of the Kingdom.

The third way whereby the Law hath provided for Defence of the Kingdom, is particular Supplies of Mony for the Defence of the Sea alone: for where the Law puts the King to any particular Charge, it supplies him with Monys to maintain that Charge: The Courts of Justice are supported at the King's Charge, and he hath the Fines and Amerciaments, the Goods of Men outlaw'd: *Bract. lib.* 3. cap. 13. f. 129. Fines for original Writs, and *pro licentia concordandi*, these are the *vestigal Judicium*. The Defence of the Realm extends it self, 1. To the Church and Religion, as is express'd in the Parliament Summons; and the King hath the Temporalties of Bishopricks *sede vacante*, First-fruits, Tenths, and the Tithes of Lands not within any Parish. 2. To the Land alone: for this he hath besides Military Services the Profits of Wards and Marriages, which no other Christian Prince hath. 3. To the Sea; *Rot. Scac.* 10 E. 3. m. 16. the King and his Ancestors are call'd *Domini maris Anglicani, & Defensores contra Hostium invasiones*: For this they

they have had the grand Custom of the Mark and Demy Mark upon Wool, Woolfels and Leather, the Prifage, viz. one Tun of Wine before the Mast, and one behind of every tenth Tun, which was due by the Common Law, as appears by *Dyer*, 1 *Eliz.* 165. and Sir *John Davis's Reports*, f. 8, 9. and imply'd by *Magna Charta*, cap. 30. The petty Custom began 31 *E. 1.* and was made perpetual, 27 *E. 3. c. 26.* as well as divers Aids and Subsidies which are an increase of Customs upon Wool, Woolfels, Leather, Wines, Tunnage, Poundage, and all other things imported or exported. That which in this kind was taken by his Majesty *anno 11.* when this Writ issued, was 300000 *l.* and upwards; wherein was included the new Imposition, of the Legality whereof he intended not to speak. But if his Majesty may impose upon Merchandise what he pleaseth, there will be the less cause to tax the Inland Counties. However it is sufficient for his purpose, 1. That his Majesty *de facto* takes them; and it was declar'd by him in the last Parliament, and annex'd to the Petition of Right as part of it, that he took them, and could not be without them, which is enroll'd in all the Courts of *Westminster*. 2. That the Grant of Custom is principally for the Protection of Merchants at Sea against the Enemies of the Realm, and Pirates, as in Sir *John Davis's Reports* f. 9, 12. and was so held by many of the Judges in *Baites* his Case in the Exchequer, and by the King's Council when that Case was debated in Parliament: And that those Aids and Subsidies, Tunnage and Poundage before they were granted for Life, were for the Protection of Merchants, and for both the ordinary Defence of the Sea, and the extraordinary in case of Invasion, appears by several Grants of them in the Parliament-Rolls, as in the 1, 3, 5, 6, 10, 11, 13, 14, 17, and 20 of *R. 2.* and in 2, 3, 6, 8, 9, 11, and 13 of *H. 4.* and in 5 *H. 5.* and in 1, 3, 4, 6, 8, 9, 10, 23 and 27 of *H. 6.* In which years Tunnage and Poundage was granted for the Defence of the Sea, sometimes for one, sometimes two, sometimes three, sometimes four, sometimes five years; but never for Life till the

31 *H. 6.*

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31 H. 6. and when they came to be granted so, it was not only for the ordinary Defence of the Realm, and principally of the Sea, but that the Kings might always have in readiness a stock of Money in their hands to withstand an Invasion, as appears by the Rolls, and the Statutes of 13 E. 4. cap. 3, 13. And his Majesty, who is in possession of them, hath by his Proclamation, printed 1626. of the Causes of the Dissolution of the then last Parliament, p. 17, 18, 44. declar'd, That they were always granted to his Progenitors for the guarding of the Seas, and the Safety and Defence of the Realm; and that he will pursue those ends, and receives them for those purposes. He added, that the Statute of Winchester 13 E. 1. for every Man's finding Horse and Armour for the Defence of the Realm, *juxta quantitatem terrarum & bonorum*, is in the Parliament Roll of 3 R. 2. n. 36. and by the Statute of 5 H. 4. in the Parliament Roll not printed, declar'd to extend not only to the keeping of the Sea, but likewise to the Defence against Foreigners: And these Men upon coming of Enemies into the Realm, may be compell'd to march out of the Counties where they live.

He then proceeded to the stating of the Question: *Bracton* and *Glanville* say, the King is arm'd with Power to repel his Enemies: The reasons in the Writ will be confess'd, but the Law hath foreseen them, and provided Supplies accordingly, without the way in the Writ. 1. The Allegiance mention'd in the Writ binds each Subject to contribute to the Defence of the Realm. In the old Customs of *Normandy*, Allegiance binds *ad Consilium & Auxilium Adjuramentum*: and by these Tenures in kind, and pecuniary Supplies without any Parliamentary Assistance, our Persons, Lands and Goods by his Majesty's Command alone are made contributory thereunto. 2. The Rule in the Writ *secundum statum & facultates*, is likewise satisfied both for Land and Sea; for Land, by finding Arms *juxta quantitatem terrarum & bonorum* (if the said Statutes of *Winchester*, or 5 H. 4. be in force) and by the Tenures of Knights Service, in *Capite*, and of Grand Serjeanty, and the Pre-



Prerogatives before mention'd: In respect of the Sea, by the Customs, Aids, Subsidies, Tunnage and Poundage before mention'd, the Charge whereof is not born by the Merchants alone, but by every Subject: For the greater the Estate, the more Wool and other Commodities arising thence are exported; if by the Owner, he bears the immediate Charge; if by the Merchant, he abates in the Price to the Owner: And the greater the Estate, the more each Person buys of Goods imported, and at a dearer rate. 22 E. 3. m. 41. in the Parliament Roll, The Commons complain'd, that the Merchants had granted the King forty Shillings upon each Sack of Wool, *en charge du Peuple, & nuemydes marchants*; and by the Statute of 36 E. 3. b. II. such Grants were forbidden without Assent in Parliament. 23. That ground of Equity in the Writ, *Quod annuatimque ab omnibus debet supportari*, is hereby answer'd; for as all have benefit by the Defence, so the *compensatio publica* comes from all. 24. His Majesty is intrusted with the Defence of the Realm, and is bound by his Oath to it, as was said in that great Case between the Earls of Gloucester and Hereford; and the Law hath provided the *stipendia Ministrii*, which binds his Majesty in point of Charge, as well as in point of Care and Vigilance: For Allegiance is an Act of Reciprocalion, and as it binds the Subject to Tribute and Subjection, so it doth the King to the charge of Protection: And therefore he supports the Courts of Justice at his own Charge, by paying the Salaries, &c. 4 H. 7. cap. 12. The King shall not omit for any favour or charge to see his Laws executed. Pu. 23 E. 1. Rot. 12. Exchequer: A Clerk that attended a Commission of Grievances, tho' for the relief of the Country, recover'd Salary from the King. In the Statute of 14 E. 3. cap. 1. and other Statutes, it is declar'd, That Aids granted in Parliament for Defence should not be brought into Example, that it might not be conceiv'd the Commons were to bear that Charge which belong'd to the King. Rut. 48 H. 3. m. 18. The King grants, that a large Subsidy the Commons gave him in the late Parliament for Defence

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Defence of the Realm, should not be drawn into a Custom. *Wiseman's Case*, 2 Rep. f. 15. A Covenant to stand seized to the use of Q. Eliz. in consideration that she is the Head of the Commonwealth, and hath the care of repelling Foreign Hostility, is not good, for the King is bound to do that *ex officio*. Com. 315. The King hath Royal Mines, because he is at his own Charge to provide for Defence of the Realm. In Sir John Davis's Rep. f. 12. are many Authorities of that kind. In the Treatise *de Regalibus*, p. 81. *Principes totam navigationem pro vectigalibus prestare coguntur*: And his Majesty in the aforesaid Proclamation, p. 18, 44. hath professed, that he is oblig'd to undergo this Charge, particularly that of the Sea. 5. The Scotch Roll of 10 E. 3. saith, that the King and his Ancestors have been the Defenders of the Sea; but that the Charge of this Defence hath been born *per Gentem Anglicanam* (as is said in the Writ) is before prov'd. 6. The King is in the actual possession of all these Services and Prerogatives, of the Service of the five Ports (unless releas'd since 7 H. 7. for then their Service was summon'd) and of Tunnage, Poundage and other Duties for Defence of the Sea. And it appears not by the Writ, or by the Record, that the Service of the Cinque Ports was summon'd, or that any of his Majesty's Mony hath been expended for the Defence of the Sea: All that can be infer'd from the Writ is, That the Ship for *Buckinghamshire* is commanded to be at *Portsmouth*, *ad proficiscendum exinde cum navibus Domini Regis & navibus aliorum fidelium subditorum suorum*. But it appears not, tho the Ships are the King's, that they are to be set forth at the King's Charge, nor how many these Ships were; whereby the Charge, if born by the King, might in proportion appear answerable to the Supply before mention'd: nor can it be intended that these Ships *aliorum fidelium subditorum*, are the Ships of the Cinque Ports, which with Tunnage, Poundage, and the other Duties, are the ordinary and known ways by Law appointed for Defence of the Seas. This way of cessing and altering the Property of the Subjects Goods without their Consent

Consent (as in the Writ) is unusual, extraordinary, and illegal; altho it were admitted, that had the Services of the Ports been summon'd, and the Mony coming by the ways before mention'd, and expended on the Defence, had not been sufficient, the Writ might have been legal. *Reylies Case*, 10 Rep. f. 139. and *Trin. 18 E. 2. B. R. Ro. 174.* The Level shall not be assess'd to the Reparation of a Wall or a Bank, so long as he that is bound by Tenure or Prescription is able to do it. *Lex non facit saltum*, is a Maxim: We are not to run to extraordinary, where the ordinary means will serve: None can sue in Chancery, which is the extraordinary, when he can sue at Common Law, which is the ordinary Reliever of Persons wrong'd. The ordinary Trial for Life is by Indictment, and a Jury; and when this can be done, it cannot be by Martial Law, nor by Judgment of the King and Peers in Parliament without Indictment; *Earl of March* his Case. *Trin. 28 E. 3. B. R. Ro. 21.* Actions extraordinary are *extra ordinem*, and have no Warrant but that of Necessity *pro hic & nunc*, and are not to be brought into Example. He said, he had now done with the stating of the Question; and the things he should spend the rest of his time upon were five.

First; Admitting the ordinary means before mention'd had been all us'd, and had not been sufficient, Whether in that case his Majesty without Consent in Parliament, might for extraordinary Defence alter the Property of the Subjects Goods? He said, that in such a case a Parliamentary Assistance is necessary: The Law ties no Man to Impossibilities, and yet the Kingdom must be defended: And therefore when all the Supplies before mention'd are spent, the Law hath provided ways of Supply, and those are the Aids and Subsidies in Parliament. Among the *ardua Regni negotia*, for which Parliaments are call'd, this of the Defence is the chief, nor is any other nam'd in the Writ but this. And in the antient Summons of Parliament, when Aid was demanded, the particular Cause of Defence, and against what Enemy, was mention'd; as appears in the Parliament-Rolls.



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of *E. 1. E. 3. and H. 4.* which he cited for Instances; but after the Reign of *H. 4.* the form of the Summons was as now. That these *ardua defensionem Regni concernentia*, are the Aids and means of Defence, and not for them to be consulted with about the way and manner of doing it, is clear. In the Parliament Rolls, *6 R. 2. pars 2. n. 9.* and *13 E. 3. pars prima n. 11.* and *21 E. 3. n. 5.* the Commons being charg'd to advise about the Prosecution of the War, excus'd themselves, as a matter belonging to the King, and not to them. And that these *ardua circa defensionem* were the Aids, is express in some of the Summons, as *Claus. 2 E. 2. m. 8. Dors.* *Claus. 31 E. 3. m. 21. Dors.* and *Claus. 5 R. 2. m. 2. Dors.* So that it's clear the Law hath provided this Parliamentary way for supplying the King's Wants for the extraordinary Defence; and he may call Parliaments as often as he pleases, for they are the fittest to proportion this Aid, when once the King hath declar'd the danger; and they are the fittest too for the Preservation of the Subject's Property in his Lands and Goods, each Subject's Vote being included in theirs. The Aids demanded by the Kings of this Realm for the Defence are so frequent, that he would spare the citing of any of them; and 'tis rare in a Subject, but more in a Prince, to ask and take that of Gift, which he ought to have of Right, and that without a *salvo* of his Right. Another way that the former Kings took to raise Mony was by Loans, and Benevolences demanded of the Subject: He instanc'd in several Loans in the Reigns of several Kings for the Defence of the Realm, where the King promis'd Repayment; and *E. 3. anno 44.* would have borrow'd Mony, but the People would not lend. It appears likewise by the Statute of *35 H. 8. cap. 12.* that for the Defence *H. 8.* had borrow'd several Sums of Mony. Another way of raising Mony, was by anticipating their Rents. *Tr. 29 E. 1. Rot. 58.* In the Exchequer Writs issued to the Sheriffs, that *pro conservatione Regni & inimicorum depreffione*, the Profits arising of their Counties, and the Rents of all the King's Tenants due at *Michaelmas* should be paid at *Midsummer*,

summer, promising allowance of it in their next half year's Rent. Now that so many Kings of such Power and Wisdom should so far descend from their Greatness, and prejudice their Right, as to borrow that of the Subject with a promise of Repayment, which without being beholden to them they might take of right, can hardly be imagin'd. He objected against the incertainty of the way intended in the Writ, for the Law delights in certainty; and all that the King can challenge of the Subject, are either certain in themselves, or may be reduc'd to a certainty, whereby he intends not such things as are common to the King with the Subject, as the Aids for marrying the King's eldest Daughter, or knight- ing his eldest Son; for these are due to every Subject that is Lord, as well as to the King, as appears by the Statute of *Westm.* 3 E. 1. cap. 35. n. 82. and are not due by Prerogative, but by Tenure: and yet the Common Law calls it *rationabile auxilium*; and by the Statute of *Westm.* 13 E. 1. it was put into certainty. And because the King was not nam'd there, the Statute of 25 E. 3. c. 11. was made afterwards. Nor are the Tallages upon Cities and Boroughs, or antient Demesne against this, because of the baseness of their Tenure, and the Subjects have them as well as the King; as appears by the Parliament Rolls in the Cases of new *Salisbury*, 33 E. 1. and of *Cinencester*, 8 E. 2. and by *Bra. Trin.* 33 E. 1. Rot. 22. and *N. B.* 79. Those things peculiar to the King are either certain in themselves, as Treasure-Trove, Deodands, Wrecks, &c. the Demy Mark in a Writ of Right, Fines *pro licentia concordandi*, the tenth part of the Value of the Land in the Writ of Covenant, the Post-fines, half so much more, and Fines for original Writs: or may be reduc'd to a certainty, either by the Jury, as in the Case of Amerciements; or by the Judges, as Fine and Ransom; or by the Parliament, as Escuage. To apply this to the present Case: The Defence of the Realm is the Cause alledg'd for the raising of Mony, but *non definitur in lege* what will serve the turn. So his Majesty might as well demand twenty

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fore the Distresses were releas'd: Hereof are divers Precedents, and among others the Abbot of *Abington*, *Br. Tr.* 34 *E. 1. Ro.* 20. and *John Arden* in the *Iter Roll of Sussex*, 7 *E. 1. Rot.* 107. which manner of Entry would not have been suffer'd, if the King could have rais'd Mony, and assess'd Men for finding Soldiers.

As to the King's charging the Subject with Soldiers to go out of their Counties: He admitted, 1. That every Man after the Statute of *Winchester*, was to find all manner of Arms for Defence of the Realm. 2. That by the Statute of 1 *E. 3. cap.* 5. upon the sudden coming of Enemies, they were compellable to travel out of their Counties. The like for appeasing any Rebellion when the King was in Person, as appears by the Statute of 11 *H. cap.* 1. & 18. 3. That so long as they went not out of their Counties, they were to have no Wages; no more were the Maritime Shires, or Borderers on *Scotland* or *Wales*. But that the Subject is taxable for Wages or Victuals, or otherwise for sending of Soldiers out of their Counties, tho for the Defence of the Kingdom, or that any are compellable to do it at their own Charge, he humbly deny'd. The Statute of *E. 1.* says, That in this case it shall be done, as usually has been done in times past for the Defence of the Realm. It's true, that before *E. 3.* time Commissions have issued out of the Chancery for that purpose; to weigh down which, it's clear that whole Armies, sometimes of 30000 at least, over and above those who were summon'd by their Tenures, have been maintain'd at the King's Charge from the time they departed out of their Counties, and were actually paid out of the Exchequer. By the Statute of 19 *H. 8. cap.* 1. those that had Annuities of the King must attend him when he goes in Person for Defence of the Realm, or against Rebels: But then there was a special Proviso, That they should have Wages of the King. Upon a Rebellion in the North, 28 *H. 8.* against whom the King intended to go in Person, Privy Seals were sent to most of the Gentry to attend him, and to bring their Bill of Expences, and Payment promis'd: And

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by the Indentures themselves, and by the Statute of 2 and 3 E. 6. cap. 2. it appears that Soldiers were retain'd in the King's Pay as well for defensive as offensive War. By the Statute of 25 E. 3. cap. 8. none shall be compell'd to find but such as hold by Service, or by Grant in Parliament: And the Common Law was so before the Statute. P. 26 E. 1. Rot. 35. Dor. Reginald Gray certifies, he could not get the Lancashire and Cheshire Men to march out of their Counties against the Scots without Mony, which was sent them by the Exchequer. Bra. Irrot. m. 26 E. 1. in Scac. many thousands inroll'd for the War at the King's Wages. Bra. Tr. 32 E. 1. Tr. 31 E. 1. Rot. 18. the Wardens of the Marches writ to the Barons of the Exchequer, That the People would not march out of their Counties without Wages and Victuals, desiring them to provide both. Secunda pars Pat. 10 E. 2. m. 26. and 9 E. 2. In Parliament the King grants, That the finding of a Soldier for sixty days at the Charge of the Town against the Scots, should not be drawn into Example. The like, Rot. Sco. 12 & 13 E. 2. m. 7. & 13. The Abbot of Ramsey, Cla. 13 E. 3. m. 38. Dor. pars prima, discharg'd of Custodia-maritima in the County of Norfolk, because he remain'd in his own County of Huntington cum equis & armis for the defence thereof: The same is in Rot. Fraunc. 21 E. 3. in prima part. 1. Oxon. The Commons 20, 21, & 23 E. 3. complain'd, That Commissions had issued out of the Chancery to charge the People in this particular without Consent in Parliament: The Answer was, that it was occasion'd by the Wars with France, and done out of necessity, but should not be drawn into Example. Pat. 8 H. 3. m. 4. The Clergy having granted the King an Aid for besieging Bedford Castle, the King declar'd by Letters Patents, that the like should not hereafter be exacted of them as a due. Rot. Inquisit. 3 E. 1. Rot. 4. Kenr. coram Auditoribus querelarum, &c. The Castle of Tunbridg being held against the King, the Hundred of Feversham was tax'd at 15 l. pro insultratione of the Castle; the Jury present this as a Grievance, and it was enter'd upon

upon the Roll; for tho in the same County, yet being before the Statute of *Winchester*, they were not compellable to besiege the Castle, much less to be self'd towards it. In *H.4. H.5. and H.6.* Commissions were granted to certain Persons in the Marches to espy out and give notice of what the Scots did, *ad explorandum pro defensione Regni sumptibus incolarum*; but how? *Ex assensu & voluntate sua.* For Victuals; By the Statute of *14 E. 3. cap. 9.* Provision for the Wars was to be made by Merchants, without any power from the King, that the People might not be compell'd to sell against their wills; and this was but an affirmance of the Common Law. *Pat. 29 E. 1. m. 16, & 19. ad reprimendum malitiam Scotorum*; Commissions issued to most Counties to provide Victuals, but the People refusing, the King offer'd to give them Security. *Bra. Trin. 8 E. 2. Ro. 99.* Victuals brought to the Marches of *Scotland*, were upon suit adjudged to be paid for: The King not only paid for the Victuals which were laid up at *Newcastle, Carlisle and Barwick*, but for the Store-houses where they were kept, as appears by *Bra. Tr. E. 3.* about the end of the Roll *Dors.* on Complaint of the Burgeses of *Newcastle* in Parliament. For Horses; when they that serv'd with Horses *ad vadium Regis*, lost them in the Service, the King paid for them; and therefore each Horse was set down with their Marks and Prices, as appears by *Clo. 34 E. 1. m. 16. Bra. irrot. m. 26 E. 1. Ro. 105, 106. Secunda pars Pat. 10 E. 2. m. 7.* and the *Scotish* Roll of *21 E. 3. m. 7.* And upon suit, the Subject hath recover'd of the King. *M. 24. of E. 1. Ro. 16. Dor. 20 Marks* recover'd in the Exchequer, *pro equo perduto in conflictu Dover*, when the French landed there. *Bra. Hil. 17 E. 2. pro tribus Equis perdit. Com' P. 9. E. 2.* for Horses lost at *Carlisle.* *Caia Hill. 2 E. 3.* for Wages, Horses lost, &c. As for Castles and Forts of Defence, the said Statute of *14 E. 3. cap. 9.* says, the People shall not be compellable to sell Victuals for them, which was not *Introductio nova legis*, as is clear by the Case *Tr. 16 E. 1. Ro. 3. Wilts.* in a little Roll, and in a great Roll



*Ann. 1637.* of the same year, *Ro. 19.* where in Trespass for taking the Plaintiff's Corn, the Defendant *Flavel* pleaded, that being Constable of the King's Castle of the *Devises*, he was commanded to victual the Castle; and on an Inquest taken, the Jury returning that he might have it of the Plaintiff with the least prejudice to the Country, he offer'd to buy of the Plaintiff, but upon his refusal took it, for which a hundred Marks Damages were given and adjudged to the Plaintiff. That when the Frontier Towns and Castles were besieged, or the Borders invaded, the King did bear the Charges, appears by the allowances in the Exchequer; *Trin. 27 E. 1. Rot. 47.* for *Newcastle*: *M. 31 E. 1. Rot. 2.* for *Carlisle*: *M. 27 E. 1. 75. Trin. 32 E. 1. Ro. 11, 12. 28 E. 1. Rot. 71.* *Barwick* forfeited; and *Rot. 78.* *Dors. 40000 l. de Thesawro Regis* carried into those parts: *Bra. in 17 E. 2.* The Castles of *Sandal* and *Horney* forfeited, at the King's Charge. For the Charges of maintaining Prisoners taken in defensive War, and of Hostages, they were always born by the Kings of this Realm, and allow'd in the Exchequer; the Instances whereof are frequent, and need not be cited. Now if in any of these particulars, in case of a defensive War, the Kings could not tax their Subjects, but have born the Charge themselves, he thence offer'd it to their Lordships to be so for the Defence in general. He said, the Allowances in the Exchequer are to rule this Case: For it's held that in all things that concern the Revenue of the Crown, because they are there debated, the Records of the Exchequer shew as well the Law of the Kingdom as the Course of that Court. And in the case of Silver Mines, one of the principal Arguments why the King had right to them was, because they were always answer'd in the Exchequer. The next Proof he offer'd was, That when the Kings had borrow'd Money for the Defence of the Realm (which was usual) it hath been not only repaid upon Petitions, and of Grace, but they have been adjudg'd to repay it upon Suit in the ordinary Courts of Justice. *Co'in P. 31 E. 1. Rot. 41. 149 l. borrow'd of Henry Sampson,*

*Sampson, pro defensione Regni*; Repayment order'd. *M. 10 E. 2. Ro. 160.* the like order for Repayment. *Bra. m. 3 E. 3. circ. princ. Rot. 664.* the like. *Com. P. 29 E. 1. Ro. 18.* The King had *pro defensione Regni* seiz'd divers Sums of Mony of the Clergy, promising Repayment: And being, in the Parliament 29 E. 1. at *Lincoln*, petition'd to that purpose, he again promiseth Payment, *ad exonerandam conscientiam suam*: and *Rot. 19. and P. 9 E. 2. Ro. 65.* divers Sums adjudg'd to be paid. But had the King conceiv'd he might have charg'd his Subjects with the Defence, he would never have made the Repayment a matter of Conscience, or at least he should have distributed part of this Charge upon all his Subjects. *H. 8.* having had divers great Loans made to him, and there being new cause of Defence against *France* and *Scotland*, by the Statute of 25 *H. 8. cap. 12.* all Assurances given by the King for those Monys, and all Suits and Petitions concerning them, are releas'd to him: These were general Loans and for the Defence.

For Authorities by Acts of Parliament; The *ardua Regni negotia*, for which they are call'd, are principally *defensionem concernentia*, not the manner of the Defence, but the Aids and Supplies themselves. The Knights of the Shire are to have full power *ad faciendum & consentiendum in negotiis antedictis*, so that for want of Power those *negotia* may not be left undone; whereby it is strongly infer'd, that these Aids cannot be rais'd without their Consent. He began with the Statute of *William* the Conqueror, *anno 4.* which is cited in the Preface to the eighth Report, and Instit. fol. 75. B. by *Ingulph*, fol. 519. by *Mr. Selden* in his *Eadmerus*, p. 171. and is of Record, and enrol'd in the Red Book in the Exchequer, and to this effect: That all Freemen should hold their Lands and Possessions from all unjust Exactions, and from all Tallage, and nothing should be requir'd of them but what their Tenure binds them to; which as in words, for the generality of them, so in intent doth extend to the Defence of the Realm. The Military Services for Defence

13 Car.

Ann. 1637. fence are by *Bracton*, lib. 2. fol. 36. attributed to the Conqueror's Institution, as is observ'd in *Pleuden*, *Tresham's Case*; which he had means to do because of the many Attainders of those who took part with *Harold*, and *Edgar Etheling*. *Matthew Paris*, f. 8. saith, he put the Clergy, who before held in *Frank-almoigne*, *sub servitute militari*, to do Service *tempore hostilitatis*. The Provision for Soldiers Pay by Tenures was likewise of his Institution, as appears by that before cited out of the *Black Book*, lib. 1. cap. 27. And further than by these Tenures, the Subject was not to be charg'd for the Defence. The next Statute he cited was that of *Running-Mead* 17 *Johannis*, and before mention'd: *Nullum scutagium aut auxilium ponam in Regno nostro, nisi per commune Concilium Regni nostri, nisi ad corpus nostrum redimendum*, and to knight his eldest Son, and marry his eldest Daughter; where *auxilium* extends to the Defence, as *scutagium* doth with which it is joined: and by other parts of the Statute Satisfaction is given to those who were disseiz'd by him, or R. 1. which did not relate to the Defence. This Statute is call'd *Magna Charta* in the Book of 5 H. 3. and in the solemn Confirmation, 37 H. 3. as is observ'd by *Matth. Paris*, p. 1155. and 1220. and was bodied with the *Magna Charta* of 9 H. 3. The next Statutes are 25 E. 1. cap. 5, 6. and the Statute *de Tallagio non concedendo*: By that of 25 E. 1. the King will not take any Aids, Tasks or Prizes for the Wars but by the common Consent of the Realm, and for the common Profit, saving the antient Aids and Prizes due and accustom'd; and by that of *de Tallagio non concedendo*, no Tallage or Aid shall be taken by the King, nor any Corn, Leather, Cattle, or other Goods by his Officers, without consent of the Party. Now that these things could not be done, tho for the Defence, thus appears: The King being ready to go over to *Flanders*, and the Parliament taking notice of the Peoples Discontent for his refusal to seal Articles sent him for redress of Grievances, he said, that without those things he could not have defended the Realm, and yet is sorry for it,



it, and promis'd amends at his return; and if he died in that Service, his Heir should make amends: And when the King was beyond the Seas, he passed this Statute of 25 E. 1. whereby it appears that the Grievances which procur'd it, and consequently the Aids and Taxes therein mention'd, were for the Defence of the Realm. That the Statute *de Tallagio non concedendo*, was made after 25 E. 1. is plain; for in *Walsingham*, p. 40. it is word for word the same with the Articles sent to the King at *Winchelsey*, before he went over into *Flanders*; which Articles relating to the Defence, the Tallage and Aid mention'd in the Statute *de Tallagio*, must be so likewise. He said, it could not be prov'd that this King, or any of his Successors ever claim'd the power to lay Aids and Tallages upon the Subject for the Support of their private Estates: And therefore the Aids and Tallages in these Statutes must be intended for the common Defence. *Walsingham* saith, that by this last Statute, *ad eorum votum absolute omnia sunt concessa*: But if it extended not to the Defence, how can the Judgments and Discretions of our Ancestors, who were so well contented with it, be freed from Censure? The next is the Statute of 14 E. 3. cap. 1. That the People shall not be compell'd to make any Aid, or to sustain any Charge, but in Parliament; which must be intended of Aids for Defence: for a great Subsidy having been granted the King as well for his Wars on this side the Sea, that is for Defence, as for the *French Wars*; it is declar'd, that this shall not be drawn into Example, and that out of Parliament they shall not be compell'd to sustain any Charge: And it is further enacted, That that Subsidy, and the Profit of Wardships, Escheats and other Profits of the Realm should be spent for the Defence of the Realm, and the Wars in *Scotland* and *France*, and not elsewhere. Which all put together bears this sense, that the Subsidies and Wardships, &c. arising to the King by his Prerogative, are to be spent for the Defence of the Realm, and other Wars; but that no Aid or Charge for any of these can be laid upon the People without Consent in Parliament: Altho

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Altho it's true that the Practice of this King was contrary to this Statute, as appears by the Parliament Roll, 15 E. 3. n. 9. The next Statutes he cited, were 25 E. 3. and 1 R. 3. against Loans and Benevolences. He said, he had seen no general Loans or Benevolences, but what were for the Defence; if there were any other, they were but few: These Statutes must therefore be intended of those concerning the Defence; for *ad ea quæ frequentius accidunt, adaptantur leges*: And these not being within the words of any of the former Statutes, and yet equally as dangerous to the Subject as the other matters, were here provided against. These Loans for Defence were after 25 E. 3. accounted unlawful. 44 E. 3. The King (saith *Walsingham*, p. 179.) hearkning to evil Counsel, would have borrow'd great Sums for the Defence of the Church and Realm, but the People would not lend. The next thing he cited was the second part of the Parliament Roll, 2 R. 2. n. 3, 4, 5. The Realm being by Land and Sea invaded by France, Spain and Scotland; and a great Council of the Bishops, Abbots, Dukes, Earls, Barons, Lords and other Sages of the Realm (which he conceiv'd were the Judges) being assembled together to consider how to raise Money for the necessary Defence, they came to this final Resolution, That they could not remedy the Mischief, but by charging the People, which could not be done without a Parliament: They themselves therefore lent Money for the present, with Advice instantly to call a Parliament: The King was then within Age, and it's likely some of these had been of his Grandfather's Privy Council, who knew his Prerogative, and extended it as far as any King before or since. This Resolution was afterwards declar'd in full Parliament by the Lord Chancellor, and enter'd on the Roll. *Ultimo Februar. 3 Car.* A Commission issued to divers Lords to raise Money by Imposition, or otherwise, for aiding the King's Allies, and for Defence of the Kingdom; wherein (the danger being so imminent) Form and Circumstances were to be dispensed with. In the last Parliament this Commission was condemn'd by both Houses, cancell'd

cancell'd in his Majesty's Presence, and sent so to be view'd by them. *Philip de Commynes, lib. 5. cap. 8.* *Bodin* *de Republica, lib. 6. cap. 11.* and *Pasquier* Advocate-General in the French King's Chamber of Accounts, *lib. 2. cap. 6, 7.* shew this Policy of the English Laws and Government, to have been the antient Law of France. But afterwards Charles the 5th and other of their Kings getting by consent of the three Estates these Aids for Defence for three or four years together; this Consent (saith *Pasquier*) gave their Kings occasion to take them afterwards without consent.

Having done with the Proofs, he endeavour'd to answer some Objections: 1. *Gascoigne's* Opinion, 13 H. 4. 14, 16. That the King may charge the People for their common Profit without Parliament; he applying it to the King's Grant of Pontage and Murage. *Answ.* It's true, the King may grant both those, and Tolls upon Erection of new Fairs or Markets, and Panage; these Grants charging *venalia* only, Goods carried to those places for Merchandize: but he denied any Tax could be laid *secundum statum & facultates*, upon the Hundred or County. By the Conqueror's Laws Cities and wall'd Towns were for the Defence of the Country, and no Fair or Market might be kept but in *Civitatibus & Burgis muro wallatis*; and there were some Mansions *murales*, which by their Tenure were bound *ad murum reficiendum*, and no other Land is liable. Parliament Roll, 1 R. 2. *secunda pars, n. 76.* A Petition that other Land within the Cities and Boroughs might be contributory, was rejected: For if this might be done, what need was there of 2 & 3 P. & m. cap. 1. and 23 Eliz. cap. 4. for taxing Men to the repair of Castles and Towns within 20 Miles of Scotland? For Tolls, Pontages and Panages, there is great Equity, that they who receive benefit by bringing their Goods to the Markets, or over the Bridges, should contribute to the Charge of maintaining the Market-places and Bridges; and they are voluntary Charges, no Man is compellable to bring his Goods thither. 2. It's objected, That the Law having



Ann. 1637. having intrusted the King with the management of the Defence, why not likewise with the Aids and Means, as the *causa sine qua non*, without depending on a Parliament? *Ans.* (1.) *Bodin lib. 1. cap. ult.* faith, *Ejusdem est potestas Tributa nova imponere, cuius legem ferre*: But that the Legislative Power is not in his Majesty out of Parliament, will be granted. (2.) The Subjects Interest being as nearly concern'd in the Defence as his Majesty's, the Law presumes the Parliament will proportion the Aid to the Occasion. (3.) The King by Law hath as independent a Power to make a foreign War as a defensive; and yet in that case it will be granted the King hath not power to tax the Subject; for then if he conquer an adjacent Realm, nay all *Europe*, the Subject should be at the Charge, and the Land conquer'd should be only his Majesty's: And if the Subject is bound to be at the Charge of a defensive War, the King by making an offensive War may cause a defensive one, and tax the Subject for the maintenance of it. 3. The last Objection is, The Parliament is a great Body, and moves slowly, and the Kingdom may be lost before their Supplies come. *Ans.* How the means of effecting so sudden a Surprize can be so secretly carried, he should not examine: But the Services which the Law hath provided for Land and Sea have the same time of forty days both upon the Summons of the Tenants by Knights Service, and of the five Ports, as the Parliamentary Summons hath: and antiently all these Summons went out about the same time, as appears 28 E. 1. m. 15. 34 E. 1. m. 15, 16. And the Tunnage and Poundage when granted for Life was, that the King might always have a Sum of Money ready upon such occasions. Parliament Roll 2 R. 2. before cited, the Subject without Parliament could not be charg'd. By the Statute of 31 H. 8. because sometimes the King's sudden Occasions could not stay for a Parliament, his Proclamation is made equivalent to an Act of Parliament, but with an exception of the Subjects Lands, Goods and Chattels: And thus the People transfer'd their Suffrage to the King, as those of the Empire did by their

their *Lex Regia* to the Roman Emperors. The *Pertica secunda* of Spain, tit. 1. empower'd their King to take from the Subject *pro necessitate Rei-publicæ*, but then he was to leave them a Pawn for it. *Livy lib. 29. cap. 35.* and *Bodinüs lib. 6. fol. 665.* affirm, That when *Hannibal* had put *Italy* and *Rome* into so great hazard, the Senate could not charge the People without their Consent; but *unusquisque* of the Senate lent *in usum publicum*. He cited the Commission of 2 Car. for the Loan, wherein were alledg'd the great Preparations by Sea and Land which threaten'd the Kingdom, That the King's Treasure was exhaust, and the business of Supply could not stay for a Parliament; therefore the King was resolv'd to borrow of his Subjects for their Defence, and promis'd Repayment. This Commission was by both Houses of Parliament 3 Car. adjudg'd to be void in Law, and by the Petition of Right presented so to the King, who deny'd it not. He admitted, that sometimes the Danger may be such, that the Subjects Goods may be taken from them without their Consent, when Property ceases, and all things are resolv'd into the common Principles of Nature. These times are sometimes only *in instanti*, and concern but a few, as killing a Man in ones own defence, pulling down Houses in a common Fire, making Forts upon other Mens Lands, or with their Goods, upon sudden Assaults; or of longer continuance, which concern the whole Kingdom, as in times of War. *Littl. Sect. 412.* A Dissent upon Disseisin in time of War takes not away Entry. 43 E. 3. Q. Imp. 135. w. 31. Plenary after six Months bars not the Patron of his *Quare Impedit* upon a Presentation in time of War. *Littl. f. 12.* In a Writ of Right, the taking of Esplees must be alledg'd to be done *tempore Pacis*. 7 E. 1. In an Action by *Parleton* against *Rardin* for taking the Plaintiff's Cattel, the Defendant pleads, that the taking of them was *tempore Belli*, and not *tempore Pacis*; and the Jury finding it accordingly, it was adjudg'd for the Defendant. But *Tempus Belli* when Property ceases,



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is not upon every intestine or defensive War; but when the course of Justice is stopt, and the Courts of Justice shut up. *Instit. Sect. 412. P. 39 E. 3. B. R. Ro. 49.* The Attainder of Treason of *Thomas* Earl of *Lancaster* was revers'd, because he was illegally executed in a time of Peace, when the King's Courts were open, and the King with Banners display'd was not in Person in the Field; and yet there were great Armies on foot of both sides when the Earl was taken. He admitted that in times of War this Writ is legal, if what is done conduce to the Safety of the Kingdom, and that without respect to any Man's Property, *12 H. 8. Br. Transf. 406. 8 E. 4. 23.* And tho in that foreseen and lingering War of *Hannibal*, the Senate could not charge the People, yet when the *Cisalpinæ* assaulted their City, the case was otherwise. *7 E. 4. 13. 3 H. 8. Br. Property 38. 22 E. 3. 16.* when the King proclaims War against any Prince or State, his Majesty's Subjects may in such case seize to their own use the Goods of the Subject of such Prince or State: But it appears not by the Writ that War was proclaim'd against any Prince or State. So that the first Question is, Whether in times of Peace his Majesty may without Consent in Parliament alter the Property of the Subjects Goods for Defence of the Realm? The time for bringing in these Supplies for Defence appears by the Writ to be seven months within four days; so that the necessity was not such, but that a Parliament might have been call'd in that time. As for the cause of issuing this Writ, that *salus Regni periclitabatur*, which is confess'd by the Demurrer, he answer'd, it appear'd not in what manner *periclitabatur*. A Man may have a Protection when he is *in negotiis Regni*; but when he makes use of it, he must shew what particular Service he is in, that the Court may judg whether the Cause be sufficient: See *36 H. 6. 39. 28 H. 6. 1.* But if their Lordships hold that the Pirates infesting the Coast, and the Preparations *ad Regnum gravandum*, be particular enough, then the case is, in a time of Peace



Peace the King foresees a danger like to ensue, for prevention whereof the Supplies will serve if brought in seven months after within four days, whether without Consent in Parliament he may alter the Property of his Subjects Goods.

At another day Mr. Sr. John proceeded in his Argument, and in the first place answer'd some Objections: 1. He began with *Danegelt*, which it's said King *Ethelred* laid upon the Subject, and made an annual Charge; and in the Conqueror's time, when the *Danes* seldom infested the Coast, was taken not annually, but (as in the Black Book, lib. 1. cap. 11.) only when *ab exteris gentibus Bellum vel opinioniones Bellorum insurgebant*: And tho after *H. 2.* time it lost the name and use, the succeeding Kings by their own Authority impos'd other Taxes for defence of the Sea. To this he answer'd, That by the best Authorities it appears not what this *Danegelt* was; *Edward* the Confessor's Laws, cap. 11. say one Shilling, the Black Book two Shillings upon every Hide of Land: nor in truth is that 11th Chapter any of the Confessor's Laws, but added afterwards; for it speaks of the Freedom the Church once had, which Freedom was not lost till after the Conquest, and of the granting of it to *William Rufus* in Parliament; and it seems to be taken out of *H. 2.* Laws, which in *Hoveden*, fol. 344. are for *Danegelt* the same verbatim with this 11th Chapter. But admitting the thing, he said the *Danegelt* was granted in Parliament: The *Danes* (*Camden Brit.* p. 142.) first infested our Coast Anno 800. and the *Danegelt* in *Ethelred's* Reign began almost 200 years after; whereas in the interim Provision was made for Sea Defence, as appears by the Sea Fights of *Alfred*, and other Kings with them; and this Provision seems probable to be made in Parliament, who long before, viz. Anno 833. consulted about repelling of them, as appears by *Ingulph*, London Print, fol. 488. and the Words, *Dansgeldi redditio primitus statuta fuit*, were most proper for the Parliamentary Authority. In *Lambert's Saxon Laws*, fol. 85. 'tis said of *Ethelred's* time, that *ex sapientum suorum Concilio*, Peace was

Mr. St. John's second day's Argument for Mr. Hamden.

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made with the Danes, who were with their Ships to defend the Kingdom against other Enemies: And Historians observe that *Danegelt* was paid to the Danes for this Defence: That this was a Parliament, is held in the Preface to the 9th Report. *Huntington*, London Print, fol. 265. saith, *Primum statuerunt Angli quod ipsi Danis censum persolverent Regibus, quod nostris modo persolvitur*; and *Statutum Anglorum* must needs be by Parliament. He said, *Danegelt* was releas'd by *Edward* the Confessor, as is affirm'd by *Ingulph*, fol. 510. and *Hoveden*, fol. 253. and all our later Historians; which *Ingulph* was brought up in *England* in *Edward* the Confessor's days, was Secretary to *William* the Conqueror, and a great Man then at Court, and in all likelihood would not report this partially against the King. That in the Black Book, that *William* the Conqueror retain'd it *quando Bella vel opiniones Bellorum insurgebant*, may be as well mistaken, as that it was two Shillings on every Hide, yet in truth but one. And if not releas'd before, yet that King *Stephen* releas'd it, is affirm'd by *Huntington*, f. 221. and *Hoveden*, f. 276. And that it was never paid after *H. 2.* time, in whose Reign the Black Book was compil'd, is agreed by all. *Sir Henry Spelman* in his Glossary saith, That when it was taken in the Conqueror's time, it was *Consultis magnatibus Regni & Parliamentari demum autoritate*. And if the succeeding Kings have in lieu thereof laid other Taxes upon the Subject only *mutato nomine*, they must hold proportion with *Danegelt*, in being set upon the Inland Towns, as that was, and upon every Hide of Land. *Clo. 15 Johannis m. 3. Dor. & 7.* and *Matthew Paris*, p. 312, 313. The French King, to whom the Pope had granted the Crown of *England*, being ready to invade the Realm, great Provision of Shipping was made, but at that King's Charge.

2. The next Objection is, That in the Terms of the Law, fol. 114. Title *Hydage*, King *Ethelred* in 1006. when the Danes landed at *Sandwich*, tax'd all the Realm by Hides, and every 90 Hides of Land were to find one Ship. To this he answer'd: 1. This

was



was when a formidable Enemy, who soon after conquer'd the Kingdom, was upon the Shore, and therefore likely the Courts of Justice were shut, and the King in Person in the Field. 2. This was but *actus unicus*, and it's *actus binus* that hath any colour inducing *consuetudinem*. 3. It appears not but that this might be done by Parliament; many of the antient Acts of Parliament are *statuit Rex, vult Dominus Rex*: And this taxing by Hidage was frequently done there. Doomsday in *Barkshire, Quando Geldum dabatur communitur per totum Barkshire dabat Hidam 3 s.* There Hidage *dabatur*. *Matthew Paris*, p. 780. recites many *Caruragia* and *Hidagia* given to the King in Parliament. And *Bracton*, lib. 2. fol. 37. is express, that they could not be taken but by Grant in Parliament.

3. The third Objection is from the Case of the Abbot of *Roberts Bridg* in *Kent*, *M. 29. E. 1. Finiente C. B. R. 77. in Replevin* for taking his Castle: The Defendants avow, That *occasione Turbationis inter Regem & Regem Francia, assignatus fuit Willielmus de Leyborn ex parte Regis ad custodiam maris faciendam*: That the Lands of the County were agisted, and the Abbot sessed in several Sums *ad predictam custodiam faciendam*, for which they distrain'd. The Abbot in Bar pleaded, That for his Lands he was assessed to find a Horse and Man *ad subsidium custodia predicta*, and accordingly found them *ad eandem custodiam faciendam*; and demands Judgment, *si una & eadem occasione custodia predicta*, he ought to find the Horse, and pay the Sess. The Defendants said, he had other Lands in the Town for which he was assessed in Mony, and for which he was not assess'd the Horse and Man, whereupon Issue was join'd. From this Case, besides the Authority in point, it's objected, That in *E. 1.* time the County was agisted *ad custodiam maris*, and likewise to find Land Forces; the last of which he had admitted might be done by the Statute of *Winchester*. But for an Answer to the Case, he said: 1. These Sesses were in time of War, *occasione turbationis inter Regem & Regem Francia*; and with *Scotland* and *Wales* besides. The



Ann. 1637. *French* had burnt the Priory and greatest part of *Dover*; the Haven there was shut up, the Goods of *French* and *Scotch*, and Lands of Priors Aliens seiz'd, and Aliens in the Maritime Parts remov'd. 2. It appears not that these Sesses were made by any Authority from the King: Nay, the contrary is evident by *Leyborn's* Commission, *Rot. vas. 22 E. 1. M. 8. Coia 23 E. 1. Rot. 77.* whereby he had no power to tax the County, but was to pay for such Victuals, Arms, &c. as he should take up. That there were Parliaments in every one of those years appears by the Summons, and that in words not usual, That the *French* intended *Linguam Anglicanam delere*; and, that they were call'd *ad tractandum, ordinandum, & faciendum nobiscum*, the Lords & *aliis incolis Regni*, for obviating the present Dangers, as 'tis in the close Roll 23 E. 1. M. 4. *Dors.* and 24 E. 1. M. 7. *Dors.* And it was usual to take such order *cum incolis*, and for the Gentlemen and other Inhabitants to make Provision in such cases by By-laws among themselves; and such By-laws held good, as appears 14 E. 2. B. R. *Rot. c. 60.* Such a By-law when the *Scots* enter'd *Durham* was made by the Inhabitants for raising Mony, and a Refuser adjudg'd to pay it. Besides *Leyborn* who was Admiral of the Fleet, there were *Custodes maris* in each Maritime County, as appears *Coia 24 E. 1. Rot. 78. Dors.* These were chosen by the Commonalty; and with the Sheriff and Inhabitants, did make Orders in those cases, as appears by the *Coia 23 E. 1. Rot. 79.* where Writs were directed to the Sheriffs of the Maritime Counties for that purpose. 3. His third Answer was, That these Sesses were for Land-Service only, and not for Shipping: For the Abbot saith, he was sessed to find a Man and Horse in *Subsidium custodia predicta*, which must be for Land-Service; and demands Judgment *si una & eadem occasione* he ought to find the Horse, and pay the Sess. This is not denied by the Defendants, but that both were *una & eadem occasione*; so that the Horse being for Land-Service, the Mony sessed must be so too. And by divers Records it appears, that the Custody of the Maritime Parts by Land is call'd

*Custodia*

*Custodia maris.* Claus. 23 E. 1. M. 4. Dors. A Writ commanding that the five Ports being at the Charge of Shipping should be freed *de Custodia maris facienda.* Co'ia 24 E. 1. Ro. 79. A Writ directed to William Bonill & sociis suis ad custodiam maris in Com. Suffolk assignatis; and yet all they were to do was for Defence at Land: So Tr. 31 E. 1. N. 20. Co'ia. How this *Custodia maritima* is to be done, appears Rot. Parliament. 46 E. 1. N. 49. and by the Statute of 5 H. 4. cap. 3. And his fourth Answer was, That the Plaintiff was a Clergyman, and the Clergy having denied in Parliament to aid the King, were then so much under his Displeasure, that he commanded his Courts of Justice, that in any Action brought by a Clergyman, *nullum ei fiet remedium.* But he said, if he should let go all that hath been said, the Case is of no Authority, for the Issue was join'd upon a matter of Fact, whether the Abbot had been sefs'd before for the same Lands or other Lands: Nay, it's strong the other way, for if the Mony-Sesses were for Shipping, the Abböt saith, that before he found Arms for the Land-Service, to which the Defendants might have demur'd, if any for the same Land were chargeable for Arms at Land and Shipping too. The truth is, that before the Statute of *Lincoln* 29 E. 1. all things concerning the King's Prerogative and the Subjects Liberties were upon Uncertainties. The Statutes of *Running-Mead*, *Magna Charta* and *Charta de Foresta*, had been several times confirm'd before 29 E. 1. and yet the Judgments in the Courts of Justice were clear contrary. By *Magna Charta* c. 2. a Baron *pro Baroniam integra* was to pay but 100 Marks for his Relief; but the Process out of the Exchequer till 29 E. 1. were always for 100 l. M. 28 E. 1. Rot. 34. Co'ia, the Court would not determine until they had consulted with the King, whether John Gray then deceas'd, who held *per Baroniam*, should pay 100 l. or only 100 Marks, according to *Magna Charta.* Co'ia M. 32 E. 1. Rot. 26. Philip Marmion dy'd 23 E. 1. and 100 l. paid. The same year it came in question whether 100 l. or 100 Marks should be paid; and because the King had confirm'd

*Ann. 1637. Magna Charta, Anno 29. of his Reign, and had commanded the Courts to inrol it, adjudg'd but 100 Marks. The Charter of the Forest is, Nullus amittat vitam vel membrum pro venatione nostra, and yet Co'ia Tr. 27 E. 1. Rot. 44. Adam Gower was beheaded in this King's Reign pro venatione in the Forest of Danby: And the Doubt being whether his Land was forfeited upon such an Attainder, it was resolv'd it was not forfeited. P. 22 E. 1. Rot. 48. The King's Shepherd had put the King's Sheep into a Man's ground, who distrain'd them, and Process went out of the Exchequer to punish the Man. And there Rot. 51. Dorf. Lessee for Life of the King's Mannor with the Advowson excepted presented to the Church, and the Court declar'd, he had forfeited the Mannor. By all which it appears, that the Proceedings of those times between the King and his Subjects are not to be rely'd upon.*

4. The fourth Objection was, That at the Common Law, before the Statute of *Winchester*, the King might compel the Subjects to find Arms for Defence of the Land, and by the same reason he may charge them to find Ships for Defence of the Sea. To this (not granting the thing, but admitting it) he answer'd: 1. The King by Tunnage and Poundage, and by the other before mention'd Duties at Common Law, hath a particular Supply for Shipping, but nothing in particular for that other of Arms; and yet for watching and warding, the King before the Statute of *Winchester* had a certain Sum of Money of each County for the doing of it, which after that Statute the County was discharg'd of, having took the doing of it upon themselves, as the Cases are, *Co'ia H. 20 E. 1. Rot. 10. and Br. Tr. 33 E. 1. Rot. 23. Dorf. 18 l. pro Can. and 16 l. pro Northumb.* 2. Each Subject, *secundum statum & facultates*, is already chargeable for Ships; and if chargeable in Money too, the Charge is double. 3. In that of Arms, there is only *mutatio speciei*, changing of Money into Arms, the Property whereof still remains in the Subject: But in this case of Shipping, there is *oblatio rei*, in respect of the Victuals and Mariners Wages



Wages for 26 Weeks. 4. That of Arms is not only for Defence against Foreigners, but for keeping the Peace at home, in Watchings and Wardings, assisting the Sheriff in the *Posse Comitatus*, &c. and yet the ordering of these for above 300 years was by Authority of Parliament. 5. In respect of the Victuals and Mariners Wages, the Case in question is rather to be compar'd to that of taxing the Country for finding of Soldiers to go out of their Counties, than to that of Arms.

5. 'Tis objected, That his Majesty for the safety of the Realm may shut up the Ports, and thereby make a general stoppage of all Foreign Trade: And therefore as he can bar Men from gaining by their Callings, by the same reason he may take something away. *Answ.* 1. The Law therein trusts the King only with that, which being done is most to his own loss in respect of Customs, &c. 2. This cannot be done but in time of War, and imminent danger.

6. The last Objection was, That in divers old Charters of Liberties and Exemptions, the Patentees are freed *de Danegeldo & Navigio*, whereby is imply'd a Right. *Answ.* In those Charters there are Exemptions also *ab operationibus Dominiorum Regalium, Parcorum, Pontium*, &c. and yet no Man will infer from thence, that the Patentees were bound to make or repair the King's Parks and Houses, or to make new Bridges, &c.

To the Precedents brought for proof of the Matter of Fact, he answer'd, 1. In general; That most if not all of them are for charging the Sea Towns, and not the Inland Counties: That besides the five Ports, many Sea Towns which have Ships, have great Privileges, and are enfranchised for that purpose, is declar'd in the Parliament Roll of 13 E. 3. N. 11. Those that are to find Ships are discharg'd of Arms and Defence at Land, as appears there, and by the Scotch Roll, 10 E. 3. N. 28. *Dors.* *Shoram* in *Suffex* found Ships, and being tax'd to Arms for the Land-Service, a *Superseas* was awarded. *Iter Suffex* 7 E. 1. Roll 63. *Dors.* *William de Bruiſe* Lord of *Shoram* claim'd the Customs of Merchants there, and ad-

Ann. 1637. judg'd for him. Rot. Pat. 26 E. 1. M. 16. Yarmouth  
*pro servitio navium*, were discharg'd of Subsidies  
 granted in Parliament; and Co'ia Tr. 3 E. 2. Ro. 30.  
 Baldsey in Suffolk discharg'd for the same cause. Iter  
 Cant. 21 E. 1. Rot. 44. Dorset. certain Land-owners  
 within the five Ports have *Tall. de quolibet homine ap-  
 plicante* upon their Lands. Petitions 1 E. 3. Ro. 9.  
 Office de Pa' and H. 13 H. 4. B. R. Ro. 39. Southamp-  
 ton had the Customs there. Rot. Par. 35 E. 3. N. 31.  
 The Commons pray, that the Franchises of the Sea-  
 Towns and Havens may be allow'd them as hereto-  
 fore. And that those that are not Maritime Towns  
 ought not to be charg'd (which is the Defendant's  
 Case) there are these Precedents: Claus. 13 E. 3.  
 M. 14. Dorset. pars secunda: Bodwine in Cornwall dis-  
 charg'd of Ships, *quia dicta villa Portus non est, &  
 longe a mare distat*. And by the Inquisition thereupon  
 awarded, it appears, the Inland Counties had not  
 been usually charg'd with Ships. Rot. Franc. 21 E. 3.  
 M. 17. Those Towns *qua naves non habent, & qua aliis  
 naves habentibus contributoria non existunt*, were dis-  
 charg'd; whereby it appears, the Members of great  
 Sea Towns were contributory, but not the Inland  
 Towns. Secunda Pars Pat. 2 R. 2. M. 42. a Charte  
 51 E. 3. The Burgesses of Beverly complain'd in Par-  
 liament, that they being *in loco arido, & a mari*, were  
 made contributory with the Town of Hull to the  
 making of a Barge, *per mandatum Regis*, and were  
 discharg'd; and this exemplified 2 R. 2. And 2. To  
 the Precedents in 48 H. 3. for taxing for Soldiers and  
 to Shipping: He answer'd, It was *Tempus Belli*: The  
 Courts of Justice were shut up, no Sheriffs in some  
 Counties, and where there were, they could not ex-  
 ecute their Office; Red Book, fol. 241. 6. 49 H. 3.  
 R. 4. Co'ia Pas. 48 & 49 H. 3. And, 3. To the  
 Commissions that issu'd before 29 E. 1. he answer'd  
 as before, about *Magna Charta*. 4. To those 30 E. 1.  
 M. 9. he answer'd, In the Patent Roll *de puniendo ho-  
 mines* that refus'd, it is, *quia mittere concesserunt* so  
 many Ships: And a Promise was as binding as a By-  
 law would have been: Neither do any legal Pro-  
 ceedings appear against the Refusers, unless the five  
 Ports

Ports who were cited by their Service; and P. 13 Car. 33 E. 1. Ro. 38. B. R. & Ro. 82. against *Seaford*, a Member of the Ports, who were charg'd *quod per servitium tenentur invenire unam navem*. 5. To the Precedents of E. 3. time, he said, His Reign was a time of War, *Walsingham*, P. 119, 131. The French burnt *Southampton*, *Stow*, p. 234. They burnt part of *Plimouth*, and assaulted the Isle of *Wight*: Rot. Parl. 13 E. 3. pars prima N. 9. They conquer'd the Isle of *Scotch Roll* 10 E. 3. M. 5. Dorf. & M. 2. All the Ports throughout *England* shut up: And yet altho such great Dangers, the Country was charg'd only by their own Agreement. *Scotch Roll* 10 E. 3. M. 3. Writs for Shipping had gone out, but nothing done: And the French riding at Anchor at the Isle of *Wight*, Privy Counsellors were sent to *Dover* to consult with the Country about the Defence of the Sea, and a Commission issued, but by Consent. Ro. Fr. secunda pars M. 24. 20 E. 3. A Writ to *Tarmouth* to stop up their Haven: Ro. Fr. prima pars M. 19. Dorf. That no Fisherman go to Sea. 6. To the Writ Claus. 10 E. 3. M. 23. that *hujusmodi vadia pro defensione super mare solvi non solebant temporibus Progenitorum* of the King; he answer'd, 1. The Writ speaks only of Wages demanded before the time of their going into Service. 2. He deny'd the thing, for 15 *Johannis* the Ships were to serve *ad stipendia Regis*; and 46 H. 3. and in E. 1. E. 2. and this King's time before the 10th year of his Reign, Wages for Defence were frequently paid. 3. He cited this Case; 'tis amongst the Pa. Petitions 1 E. 3. The Men of *Tarmouth* 20 E. 2. were commanded to set out some Ships to Sea to guard the Fishermen, and *Adam de Bridlington* the King's Clerk was sent with 300 l. which the *Tarmouth* Men suppos'd they should have had as Wages, but the Clerk would let them have but 230 l. for which he took their Bond, as Money borrow'd of the King. 1 E. 3. They complain'd in Parliament, and their Bond adjudg'd to be cancell'd if they had done the Service. 4. The Violation of the Subjects Rights procur'd the aforesaid Statute of 14 E. 3. c. 1. against any such Charge without Assent in Parliament.

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He then offer'd several Authorities and Proofs in the Point in question: The first was the Patent Roll 26 E. 1. M. 21. whereby there appears, 1. The Confession above-mention'd of that King and his Council, that he was so far from having Power to tax the People for the Custody of the Sea, as that he was bound to make them Satisfaction for what he had taken *pro custodia maris*; which he there acknowledges to be a Grievance; and Commissioners were appointed throughout *England* to enquire of that and other Grievances, whose Instructions were, That if the things were taken without Warrant, then the Taker; but if the Officer went beyond his Warrant, then the said Officer; but if the Warrant was pursued, then the King was to make Satisfaction. 2. That the Charges laid upon the People for the Custody of the Sea was the principal Grievance which occasion'd the Statutes of 25 E. 1. and *de Tallagio non concedendo*, as hath been before prov'd; and therefore the antient Aids and Prizes excepted out of the said Statute of 25 E. 1. could not extend to the Custody of the Sea, which was one of the principal Grievances complain'd of. The next Authority was *Cōia H.* 23 E. 1. Ro. 77. The King had commanded 30 great Gallies to be made by several great Towns *pro defensione Regni, & securitate Maris*, and promis'd Payment to those that made them; which if the King might have commanded, the making of them at the Charge of the Towns had been *nudum pactum*: But upon Suits in his, E. 2. and E. 3. times, these Monies were recover'd in the Exchequer by *York, Ipswich, Dunwich, Southampton*, and other Towns, as appears by M. 29 E. 1. Ro. 29. Dors. M. 31 E. 1. Ro. 77. P. 5 E. 2. Ro. 21. Bra. M. 6 E. 2. Ro. 14. P. 1 E. 3. The next Authority was the Parliament Roll 13 E. 1. *pars prima N. 9.* There it was propounded on the King's part to the Commons, that they should advise upon three things, *viz.* the keeping of the Peace, the Defence of the Marches, and the Safeguard of the Sea; but with this Caution, That they not being bound to the Safeguard of the Sea, their Advice should not bind them thereunto, there being Ships enough

enough to do it, if People were willing. *N. 11.* The Commons notwithstanding when they came to that Article of the Sea, refus'd to debate it, lest it might imply they were chargeable to do it, but protested against giving Advice therein, and declar'd the five Ports and other great Towns who had Franchises, and were bound thereunto, should do it. The next Authority was the Parliament Roll 20 *E. 3. N. 21.* The Commons having formerly granted the King divers Aids and Subsidies for guarding of the Sea, grew weary of it, and by Petition wherein the Lords join'd (for all Acts of Parliament in those times were by Petition and Answer) desir'd him to bear the whole Burden thereof, and charg'd him with his Promise to that purpose: The King deny'd not his Promise, nor yet wholly the thing, but answers, it should be done as had been done before, because the Sea could not be better kept than he had kept it: However, here is the Judgment of both Houses of Parliament express in Point. The next was *Rot. Franc. 21 E. 3. secunda pars N. 11.* and 9. The Merchants had granted 2 s. 8 d. upon their Goods till *Michaelmas pro conductione Navium & Merchandizarum, & pro defensione, &c.* The King lengthens out the time to *Easter*, and by Proclamation declares it should then cease. But this not satisfying, the Commons 22 *E. 3. N. 16.* petition'd against it, and that by procurement of no Merchant such an Imposition should be continu'd, and the King answer'd it should cease. The next was the Parliament Roll 2 *R. 2. pars secunda N. 5.* before cited, where the great Council and Sages of the Kingdom resolv'd, That the Commons are not chargeable to the Defence of the Realm without Parliament, and therefore Mony was lent for Defence of the Sea. The next was the Parliament Roll 2 *H. 4. N. 22.* Commissions to charge the People to make Ships for Defence of the Realm without Consent in Parliament, were repeal'd by the King and the whole Parliament; and the King put it into the Parliamentary way. The next was the Parliament Roll 9 *H. 4.* which Parliament was call'd for the Safeguard of the Sea, and of

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*Ann. 1637.* the North Marches: The King there acknowledg'd he could not without the Parliament charge the People for the safe keeping of the Sea. The next was the Parliament Roll 4 *H.* 4. where, upon a Grant of a Subsidy, Tunnage and Poundage, and a 10th and 15th, the Lords and Commons protested, that it should not be brought into Example either for the Wars or Safeguard of the Sea, unless by a new Grant in full Parliament. The like Protestations in the Parliament Rolls of 6 *H.* 4. *N.* 12. and 1 *H.* 5. *N.* 17. And these Kings consented hereunto by accepting the things granted, without any Qualification of the Protestations: And if not chargeable to the guarding of the Sea in a certain way, as are 10ths and 15ths, much less in a way uncertain, as here. He then offer'd to them the Practice of former Kings in their frequent demands of Aids in Parliament for Defence of the Sea, their borrowing of Monys for that purpose, the Indentures of Reteyner at the King's Charge, the Allowances upon Suit in the Exchequer for Victuals, Mariners Wages, Archers, Prisoners taken in Sea Fights, *pro defensione*, and other Necessaries for Shipping. He then urg'd that of the five Ports, whose Service is certain in respect of the Time, but fifteen days in a year; and of the Charge, but 20 Men and a Master; the number of Ships certain: Besides, they are discharged of Arms for Land-Service: There were free from Aids in Parliament, *H.* 2 *E.* 3. *Cōia* about the end of the Roll. They are freed from Tolls, Murage and Pontage; and if these that have such Privileges shall serve but fifteen days in a year, how shall those that have none do it for 26 weeks, as in the Writ? And when their Charge is certain in the number of Men and Ships, the Charge of the rest of the Commons shall be uncertain in every thing, as by the way in the Writ. Nay further, when the Ports exceed their Charge in the number of Men or Ships, allowance is made them by the King: And it appears by the Quire of *Dever* and Patent Roll of 7 *H.* 7. before-cited, that after fifteen days they were to be at the King's Charge: So



in the Patent Roll 19 H. 3. 14. The King promises Payment for all in the Ship above the number of 21. Bra. Tr. 33 E. 1. R. 22. Allowance for Service in Scotland: *Visus Com.* P. 33 E. 1. R. 70. P. 34 E. 1. Ro. 37. *Cōia la Composition.* Now if the Ports are not chargeable with any further Defence at Sea than what they are bound to, how can those that are not bound at all, be chargeable at all?

He concluded, he knew *nullum tempus occurrit Regi*: The Disuse therefore he should press no further, than as it is an Interpretation of the Statutes against Aids and Tallages, of the Complaints in Parliament that those Statutes had not been kept, and of the before-mention'd Declarations, Petitions and Protestations, and a putting them in practice; *Praxis Sanctorum est interpretes Preceptorum.* The Claims which antiently the Subject made upon the Crown, That the Great Officers of the Kingdom could not be chosen but in Parliament, and that the King had not Power to sell any of the antient Crown Lands, the Disuse shews they were not legal, and in this case the Nonclaims of so many Kings and Queens do shew their Consents; That without Parliament they could not have laid such a Sefs upon their Subjects, as is now laid upon his Client.

At another day, viz. Decemb. 16. 1637. Sir John Attorney Banks, his Majesty's Attorney General, argued for General's the King. He recited the Proceedings in this Cause; Argument and that upon Oyer of the first Writ of 4 August for the 11 Car. and the *Certiorari, Mittimus, and Scire fa-* King. *cias* thereupon, and their several Returns, Mr. Hamden had demurr'd. He said, the Case upon the Record was this: The Sea is infested with Pirats and Turks, who take the Goods and Merchandizes of the King's Subjects, and others, and carry the Men into Captivity: There was imminent danger that the King's Dominion at Sea should be lost, or at least diminish'd, and that *salus Regni periclitabatur.* Whether in this case the King *pro defensione Regni, tuitione maris, &c.* may command his Subjects *per totam Angliam*, by Writ under the Great Seal,

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Seal, to provide Ships at their own Costs and Charges, when the King in his own Judgment conceives the Danger necessarily requires this Aid, is the Question upon this Record: He divided the Writ of 4 August into several Branches; he affirm'd there was no Clause therein, but was verified by many Records, and is *secundum legem & consuetudinem Angliae*. He said, the Question was of a transcendent nature: These Writs have issued out in the times of the Saxons, and in all Succession since: And some Questions have been made about the Equality of Assessments, the manner of levying them, Charters of Exemptions, &c. But whether by his Royal Power he may command this for the Defence of himself and the Kingdom, was never before judicially question'd in any Court at Westminster. His Majesty notwithstanding, for the Satisfaction of the People, and to clear his Justice, suffers it to be determin'd in this legal way by their Lordships: He said his Position was, That the King, as King of England, *pro defensione Regni, tuitione maris*, &c. when he conceives it a time of such danger as doth necessarily require the Aid in the Writ, may command and compel his Subjects *per totam Angliam* to set forth Ships with Men, Munition, and double Equipage, and that as well by his Writ under the Great Seal, as by Consent in Parliament: For Proof whereof he would reduce what he had to say to five Heads.

1. The first is, That this Power is *inter jura summa Majestatis*, innate in the Person of an Absolute King, and in the Persons of the Kings of England; not any ways deriv'd from the People, but reserv'd unto the King, when positive Laws first began; and the King is sole Judge of the Danger, and how this Danger is to be prevented. He said, Magistracy and Subjection are of Nature; and 7 Rep. fol. 13. before any Positive or Municipal Laws People were govern'd by the Law of Nature: And yet he would not discourse of that Law which teacheth us to defend our Country, nor of the Law of God which commands Obedience and Subjection, nor of

the Law of Nations, which agrees there must be Protection from the King, and Obedience from the People; nor of the Imperial Law, which saith, that in Cases *pro utilitate*, the King may *statuere* alone: But he would confine himself to the Law of the Land. In the Original Government of this Nation there were several petty Regiments: In *Julius Caesar's* time four Kings in *Kent*; so those times are not material. Afterwards the *Romans* for 500 years had their Prefects here, who no doubt did what they pleas'd. By the *Saxon* Princes who succeeded them, this Naval Power was commanded for Defence of the Realm. *Inas* King of the *West-Saxons*, *Anno Dom.* 725. granted to the Abbey of *Glassenbury*, *Quod sint quieti ab omnibus exactionibus & operibus*, saving Expeditions, Castles and Bridges: The like Exception in 742. by *Waldredus* King of *Kent* to his Churches: By *Ethelbaldus* King of the *Mercians* in 749. the like Exception. *Egbert* in 840. commanded a Navy to be provided for Defence. *Ethelwald* King of the *West-Saxons* in 854. granted the Church should be free from all Services Temporal, except *Regalibus Tributis*. In *Alfred's* time, the first Monarch of *England*, Ships were set out *ex precepto Regis per totum Regnum*: So *Wigornensis* 316. and *Huntington* 351. This King made a Law, that no Man on pain of Death should upon Summons sit still in Theft, Bloodshed, or going to War. King *Edgar* commanded that a Navy should be set out yearly: He granted to the Abbey of *Thorney* all Immunities except building of Bridges, Castles, and Forts; the like to the Church at *Worcester*: By those Grants it appears those three fundamental Services were reserv'd to the Crown. In 1008. King *Ethelred* commanded *per totam Angliam*, every 310 Hides of Land to build one Ship, and every 8 Hides to find a Man for Defence against the *Danes*: So *Huntington* 360. *Matthew of Westminster* 387. *Hoveden* 426. and *Malmshury* 100. Sir *Henry Spelman* saith, *virgata terra* contain'd 24 Acres, and there being 363600 Hides in *England*, this at 310 Hides to a Ship amounts to several thousand



Ann. 1637. sand Ships; and a Man for every 8 Hides to 45450 Men. He likewise made an Edict for a yearly Naval Expedition to be ready at *Easter*, with a Penalty for departing out of the Service, which Mr. Attorney read in Court out of an old Book he had from *Cambridg*. He said, King *Canutus* (*Lambert*, fol. 117, 118.) *ex sapientum Concilio*, by the Advice of his Lords, commanded among his Temporal Laws, c. 10. Shipping to be provided, and a Penalty on such as refused to pay 120 Shillings, a great Sum in those days; and forfeiture of their Estates for departing. If these Edicts were Acts of Parliament, they stand unrepeal'd; and if no Acts, they show the King's Power. King *William I.* confirm'd the antient Laws; and this of commanding Shipping for Defence of the Realm, is a principal part of the Royal Power. It appears by the Register 127. b. that the King is to provide for the Peoples Safety: By *Stamford Prerogative*, cap. 1. he is to defend the Kingdom; and by *Fitz. Nat. Bre. fo.* as well against the Sea, as other Enemies: not to raise Sea Walls at his own Charges, but by his superintendent Power to authorize Sheriffs and Commissioners to see it done at the Peoples Charge: And this he could do before any Statute, as appears by the Writ in the Register (before the Conquest) 227. and *Pat. 23 E. 1. M. 4. Dorf. Pat. 2 E. 3. 2 M.* In *Wiseman's Case*, 2 *Rep. fol. 15.* The King *ex officio* is to govern his Subjects, and 7 *Rep. fol. 9.* is to protect the whole Kingdom: He is an absolute Monarch; nothing can be given to an absolute Prince, but is inherent in his Person. *Brac. lib. 2. fol. 55. b. Dominus Rex super omnes.* Statute 24 *H. 8.* The Realm of *England* is an Empire. Stat. 25 *H. 8. c. 21. 1 Eliz. c. 1. 1 Jac. c. 1.* The Crown of *England* is an Imperial Crown. 16 *R. 2. c. 5.* The King holds his Empire immediately of God. *Irish Reports*, f. 60. *Rex Anglia est absolutus.* *Fortescue* saith, the King of *England*, as well as any other King or Emperor, hath all his Liberties within his Kingdom *in Imperio suo.* 1 *Com. 177. 11 Rep. 7. 21 E. 4.* and other Records, The King is a Body Politick, free from all Imperfection, immortal, and never dies.

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The King, as he is an absolute Monarch, hath *inter jura summa Majestatis* these given him by the Common Law. 1. Supreme Dominion by Sea and Land: The *Mirror* saith, all Lands, Jurisdiction, and Dominion is in the King; so that what is not granted away remains still in him: If the King grant Lands *absq; aliquo reddendo*, yet the Tenure remains to the King; 8 H. 7. 12. 30 H. 8. 45. *Dyer*. The Case of *Sutton, Marsh, and Mirror* 8. He is *Dominus Maris Anglie*, Owner of the Sea, and of the Soil under the Sea; and is seized thereof. 2. He hath a Sovereign Jurisdiction by Sea and Land; He creates the great Officers, Judges, and Admiralty, 20 H. 7. *Fo.* 8. 12. H. 7. 17. a Power to make Justices cannot be granted, and the Admiralty hath been time out of Mind. The Kings of England's Sovereignty upon the Sea appears by a Record in the *Tower* to have been acknowledg'd by *Spain* and *France*, and is prov'd by Mr. *Selden's Mare clausum*. 3. The King only hath the Power of Pardons and Restitutions; 1 H. 4. *Fo.* 5. 20 H. 7. 8. He hath *Jus nummi percutiendi*, as in 21 E. 3. 6. and of debasing the Coin; 5 Rep. 114. He only can put a value upon it; *Davis Rep. Fo.* 20. He can by his Prerogative make any Foreign Coin lawful Mony of England. 3. He hath *jus summa Majestatis*, that of concluding War and Peace, 19 E. 4. 6. which he may do without calling his great Council, 7 Rep. 25. All England without the King cannot *bellum indicere*; and to make Aliens Denizens is a point of High Prerogative. *Obj.* If the King may cause Forces to be mustred and Ships provided at his Pleasure, he may do it where there is no imminent danger, and so make it grievous to the People. *Answ.* The Law hath trusted the King, and we ought not to distrust him; he is the Fountain of Piety and Justice, and will do right to his Subjects. 1 *Com.* 240. all Justice is derived from him: 13 E. 4. 8. he can do no wrong: *Bract. lib.* 3. ca. 9. 8 H. 6. 20. He is the sole Judg, and we ought not to question him; *Bract. Rex non habet superiorem nisi Deum*: 11 Rep. 72. He is the Fountain

Ann. 1637. tain of Justice and Right; and he being the Lieutenant of God, cannot do wrong: 17 E. 3. 59. He cannot be made an instrument of Covin and Fraud: 5 Rep. 14. Religion, Justice, and Piety are the supporters of Crowns; 24 E. 3. 42. Stamford 72. If the King (nay if the Council) commit a Man, he is not replevisable; and what the Judges do as in their Office, shall not be assigned for Error, see 5 Mar. Dyer 163. and 1 Mar. Dyer 89. 7 H. 7. Fo. 40. 10 H. 7. 28. Fitz. nat. Brev. M. 7 E. 1. *coram Rege*; It cannot be assigned for Error, that the Judg did not give right Judgment, or the Clerk did not make right Entries, nor that he who levied a Fine or suffered a Recovery was *non compos mentis*. 3 Rep. fo. 121. Doctor Bonhams Case; A Record by a Judg or Justice of Peace not traversable. Now if one shall not be admitted to aver against the Acts of the Judges, much less against the King, that there was no cause of danger. The King is absolutely trusted with this Defence; Bract. lib. 1. cap. 24. old *Magna Charta* Fo. 162. Rot. Parliament 45 E. 3. N. 34. 6 H. 4. 59. Long. 5 E. 4. Fo. 129. A Subject cannot make a Fort or Castle upon his own Freehold without the King's Licence. Then he spake of the vast Sums the King had spent some Years upon Shipping, besides what had been contributed by his Subjects.

2. His second Position was, That this Regal Power is not confin'd to the Advice of a Parliament; but it hath been done *per ipsum Regem, aut per concilium, aut per dominos suos, aut per Regem* with the advice of Merchants and Portsmen, and that when Parliaments have been sitting, and their Advice not thought necessary: but the King alone may for this common defence *statuere*; and great reason, for Kings were before Parliaments, and Justice was originally, as in *Moses*, in the King's Person, tho afterwards Deputies were appointed by him; 12 H. 7. Fo. 176. *per Fineaux*. Before positive Laws, Kings ruled according to natural Equity, and then surely the King might ordain; and so since positive and municipal Laws have the Kings of England done.

And



And it appears by the Practice since the time of William I. that they have by their Writs ordained the number of Ships, the times of Meeting, the manner of Munition, and the stay for the Defence, *quamdiu nobis placuerit*. 1. He may ordain by his Proclamation, as *Clausf. 24 E. 1. p. 2. m. 2. Dorsf.* he commanded the Nobility, Knights, Esquires and other Men at Arms not to depart into Foreign Parts; which is agreed in *F. N. B. 85.* may be under the great Seal or Signature, or Privy Seal, *Clausf. 24 E. 3. m. 7. Dorsf. 4 H. 8. 11 H. 7. 23.* He may grant a Proclamation for Justing, and if one of the two be killed, it's no Felony, otherwise if without Proclamation, *5 Rep. 114.* abovecited. 2. He may ordain by his Patent alone, *40 E. 3. Fo. 17, 18.* A grant to the Scholars of *Oxford*, that they should have the Choice of Inns there; this, tho an In-croachment upon the Townsmens Freehold, was adjudged good, because in favor of Learning. The Justices in *Eyre* may take up the principal Inn, *49 E. 3. 162.* Nothing more usual, than for the King to grant to a Corporation of his making to make Ordinances; and if the Creature can do so, much more he that created it. 3. He may ordain by his Writ, as *9 E. 3. 16.* in the Case of the Tenants of *Northumberland* (who had been mightily oppressed by the Scots) for stay of the Suits brought against them for their Rents. The like are the Writs of Protection. 4. He and his Council may ordain, *m. 4. H. 3. Fitz. Dower 179.* They ordained that no *Englishman* should be compelled to answer any *French Man* or *Woman* in any Suit, till the *English* were answered their Suits in *France*; and this was pleaded in *Dower* brought by a *French Woman*, *39 E. 3. 7. per Thorp. Rot. Fr. E. 3. m. 6.* The King and his Lords may make an Ordinance as binding as a Statute. He said, he could shew above 40 Writs that had gone out to the Nobility, Clergy, and all other Subjects for Aid for the Maritime Parts. *Rot. Fr. 22 E. 3. m. 16. & 50 E. 3. m. 41. Do. & 24 E. 3. m. 6.* which last is to the Inlands within 6 Miles of the Sea. *40 E. 3. m. 37.* The like Writs to most Maritime Counties. So for Provisions for the Army,

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the King and Council have ordain'd where Markets should be kept, and Wine sold, *Rot. Sco.* 10. 12 *E. 2. m. 13. Dor.* and with how many Men every Town should be charged, *Cl.* 13 *E. 3. p. 1. 14 Dor.* with a Command to distrain for Soldiers wages: And if the King can at all times of danger do this so many ways, much more in Cases of necessity; Men may then be compelled to bring their Provisions to Market, whether they will or no. 5 *E. 4. 6. 14 H. 7. 29.* Jurors are to hold together, but not if the House be like to fall on them. 38 *H. 6. 11.* upon a *Præcipe*, the Tenant is excus'd, if he could not pass the Waters. 5. The King may ordain by the Advice of the Judges, who are his Council in Legal matters. 19 *E. 3. 17. 4 Fitz. Judg-*ment, 27 *H. 6. Fo. 5, 61.* the Judges made certain Explanations on the Statute of *Glocester*, which have the force of a Law at this day. The King hath all the incidents of a Defence. He hath commanded Murage of Towns, and Towns to be fortify'd at the Peoples Charge, as appears by *Rot. Alur.* 12 *E. 3. ps. 2. m. 10. Pat. 12 E. 3. ps. 3. m. 5.* By 19 *E. 2. ps. 1. m. 12.* it appears the King imposed a Rate upon all Goods and Merchandizes that came to *Hull*, and commanded it should be employed to the walling of the Town: In the same Roll, in 22 *Pat. 12 E. 3. ps. 3. m. 14. Dorf.* The like for *Dover* and other Towns, *Rot. ibid. M. 15. and Claus. 1 R. 2. m. 12. and Cl. 12 E. 3. ps. 3. m. 32.* The Walls of *Winchester* commanded to be repaired, and *Oxford*, &c. to be fortify'd at the charge of the Inhabitants; the King commanded Castles to be fortify'd at the Owners Charges. *Pat. 1. 8 E. 3. m. 9.* He hath taken them into his own Hands, *ad defendendum, &c. Claus. 13 E. 3. ps. 1. m. 36. Dorf.* By the Advice of his Council he order'd *Southampton* to build a Wall; by the same reason he may command the Defence by Sea. So *Rot. vas. 11. 12 E. 3. M. 29. Dorf. combust. insigniis, &c. Claus. 1 R. 2. m. 4. Dorf. de ordinatione pro vigiliis, &c.* for erecting of Beacons. *Claus. 14 H. 3. m. 17. Dor. Rot. Sco. 10 E. 3. m. 2. Dorf. omnes naves pro defensione, &c. Rot. Alm' 12 E. 3. m. 23.*

*m. 23. ps. 1, & 12.* The King may command im-  
barging and arresting of Ships for defence of the  
Realm. *Pat. 19 E. 2. m. 7. Dors.* and in the same  
Roll *m. 10. Pa. 15. m. 6. Pat. 48 H. 3. m. 5. Cl.*  
*23 E. 3. m. 5. Dors.* The King appoints who shall  
be Admiral, who *custodes Marit.* And *Fra. 21 E. 3.*  
*m. 31. Dors. Claus. 13 E. 3. ps. 1. m. 14. Dors.*  
the Country paid the Charges of the *custodes Marit*;  
and *Claus. 25 E. 3. m. 16.* the King, when there was  
Cause, moderated the Expence. And *Pat. 48 E. 3.*  
*m. 4. Claus. 48 E. 3. m. 2, & 3. Dors.* order'd how  
much and how long the Country should pay for  
Wages. *Claus. 23 E. 1. m. 5. Dors. Claus. 13 E. 3.*  
*par. 2. m. 14. & Pat. 23 E. 1. m. 1.* This Guard  
of the Sea-Coasts was as the King directed. And  
*Claus. 23 E. 1. m. 5. Dors. Claus. 8 R. 2. m.*  
*Pat. 12 E. 3. pars 2. m. 8. Pat. 12 E. 3. pars 1.*  
*m. 14.* The King discharged some particular Men and  
Ports from this *custod. Marit.* By *Pat. 48 H. 3.*  
*m. 5. Dors. Cl. 48 H. 3. m. 3.* and a great number  
in the times of *E. 2.* and *E. 3.* it appears that he  
punished those who neglected this Service by Distress,  
Imprisonment, and Seizure of Lands and Goods.  
And tho'tis the Countries Mony, yet the King appoints  
the Paymaster; *Claus. 48 H. 3. m. 2. and Rot. Sco.*  
*10 E. 3. m. 20. Cl. 16 E. 2. m. 13.* where there  
hath been Service due, he hath in time of danger  
commanded them *ultra servitium debitum:* and *Rot.*  
*Alm. 12 E. 3. pars 2. m. c. dors.* he hath continued  
the Arrays as long as he pleased.

He said, that when Parliaments were sitting, and  
determined concerning the Land Forces, the King  
hath issued out Writs for setting forth Ships at the  
Charge of the Subject, without advice in Parliament;  
a Parliament was held *24 E. 1.* and yet in that Year,  
*Pat. 24 E. 1. m. 17.* Command to take up 100  
Ships; and in *P. 24 E. 1. ex parte Regis Rem' Ex-*  
*chequer Rot. 22.* Command *pro custodia Marit.*  
*9 E. 2.* A Parliament was held at *Lincoln*, and yet  
that Year Writs went out to provide Shipping, as  
appears *Rot. Pat. 9 E. 2. pars 2. m. 26.* another  
Parliament *12 E. 2.* and yet *Rot. Sco. 11, 12 E. 2.*



Ann. 1637. m. 8. the King required *Norfolk, Suffolk, Dorset, Somerset, &c. subsidium facere per naves*; altho at the same time there was a Provision by Parliament for the Land Service. In 10 and 11 E. 3. (those great Years of sending out Writs) Parliaments were then holden; yet *Claus. 10 E. 3. m. 37. Dorf.* all Ships of 40 Tun and *ultra* were by Writ commanded to be seiz'd at *Bristol. 10 E. 3. m. 21. Dorf.* Command that the Ships should be sent forth: *Membr. 21. Dorf.* same Roll, Command to *London* to set forth Ships at their own Charge: *Sco. 10 E. 3. m. 21. Dorf.* Writs to the Sheriff of to send Horsemen and Footmen to the County of *Southampton*. Here Men were drawn out of their own County, and the refusers called Rebels. *Rot. ibid. m. 21. de navibus pro defensione Regni*, some of which Writs mention'd a Parliament, *Sco. 10 E. 3. m. 7.* but issued by the Royal Power only. *Vas. 10 E. 3. m. 6. Dorf.* Proclamations to several Counties that all Ships be in a readines; *17 E. 3. m. 2. Dorf.* Ships are by Writ commanded *pro guerra super mare*; *12 E. 3.* A Parliament was then held at *Northampton, Cl. 12 E. 3. pars 2. m. 1.* same Roll *pars 3. m. 22. Dorf.* And yet that Year the King commanded Shipping at the Charge of the Counties, as appears *12 E. 3. pars 1. m. 12. Cl. 12 E. 3. pars 3. m. 29.* In *13 E. 3.* a Parliament was likewise held, as appears Parliament *13 E. 3. m. 9, 12.* tho not mentioned in the printed Statutes. This Record, tho pressed by the Defendent's Council, makes strongly against them. For the Commons there disclaimed their having any cognizance of the guarding of the Sea Coasts, but now the Defendent's Council will needs have the Advice of the Commons necessary; the Commons there say in their Petition that the Maritime Towns ought to guard the Sea without wages taken, but that was not granted by the King. For in the same Year, *Rot. Alm. 13 E. 3. m. 13. Dorf.* That King commanded Ships for three Months. And *Cl. 13 E. 3. pars 1. m. 14.* in several Counties Men were distrained for payment of Wages for the Archers, and others that guarded the Sea Coasts. And

And Rot, Alm. 13 E. 3. m. 15. Dorf. the King appointed the Arch-bishop of York, Hugh de Peircy & al<sup>s</sup> for that purpose.

3. The third thing he propos'd was, that this Power in the King is implied by those Sovereign Titles which the common Law of England gives him. *Bracton lib. 2. cap. 24.* He is *vicarius Dei*, He is *jure divino*, a Model of God himself; 40 E. 3. Fo. 18. The Guardian of the Common-wealth: 12 H. 7. Fo. 7. The Sheriff hath *posse Comitatus* as well for Defence as Execution of Process; shall not then the King have it? 10 H. 3. Fo. 1. He is the Conservator of the Law: 20 H. 7. Fo. 4. *Rex est Capitalis Justiciarius totius Angliae*; Stamford Prerogative, cap. 1. the most Worthy part, the Preserver, Nourisher, and Defender of the Common-wealth: 11 Rep. 7, 6. *medicus Regni & sponsus Reipublicae*, to prevent as well as remedy Danger: Com. Fo. 130. the Soul of the Commonwealth; 11 Rep. Fo. 72. the Fountain of Common Right.

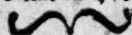
At another day Mr. Attorney-General proceeded in his Argument; and 4. In the fourth place, insisted upon such Precedents as he had, and should offer; for these Writs have not issued upon any sudden Advice, but upon great Search made by his Predecessor Mr. Noy, and other the King's Counsel and some others. He said, in the vouching of these Records he should observe seven things.

Attorney  
General's  
2d Day's  
Argument.

1. That these Precedents were not grounded upon any particular Covenant, Charter, or Custom, but upon the Law of the Land, and bound all the Kings Subjects, as well Clergy as Laity, Cl. 48 H. 3. m. 3. Cl. 9 E. 3. m. 11. Sco. 10 E. 3. m. 12. the same Roll, m. 20. dorf. Malm. 12 E. 3. m. dorf. the same Roll m. 21. Malm. 13 E. 3. m. 13. By all which Records it appears that all Men are by their Allegiance bound to the defence of the Realm; and in the same Roll, m. 17. there be several Writs to all the Bishops of England, to find Men at Arms for this Defence: *Frankalmoigne* Tenure was no Plea against this Service, Rot, Franc. 46 E. 3. m. 134. A Writ directed to the Bishop of Canterbury for



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arming all Ecclesiastical Persons within his Province; the like to the Bishops of *York* and *Durham*: nay the Ports that were obliged to do particular Service, were in case of extraordinary Defence to perform Services *ultra servitia debita*, as the Cinque Ports were in several Kings times beyond their 52 Ships for 15 Days; and by *Sco.* 10 E. 3. m. 23. do. 28. do. the same Roll m. 22. and *Malm.* 13 E. 3. m. 13. it appears their Ships have been arrested for that purpose. *Cl.* 16 E. 3. m. 13. *Dors.* the King writeth to several Earls, Barons, and others to be at *New-Castle upon Tyne*, with Horse and Arms beyond their Service: all which Writs and Precedents are grounded upon the Law of the Land.

2. That all these Writs have issued *per Regem* or *per Regem & Concilium*, without Advice in Parliament, tho sometimes with the Advice of particular Merchants and Portsmen, as in *Sco.* 11 E. 3. m. 2. *Dors.* 19 E. 3. pars 1. m. 26. *Dors.* Of these Writs *per Regem*, &c. there are above 500, with which he said he would attend their Lordships; and shall not these Precedents make a Law Rule? 4 E. 4. *Fo.* 43. The Judges took Exceptions to a Writ of Error, because contrary to Precedents; nay Precedents make a Law, tho the Writ be contrary to Law and Reason. 33 H. 6. *Fo.* 20. an absurd Return by a Sheriff good, because warranted by Precedents. 20 R. 2. *Fo.* 7. a Duty was to be paid to a Mayor and Commonalty; an Acquittance from the Mayor alone good, because it had been so used. 2 Rep. *Lamie's Case*; A Lease for Years from the King under the Exchequer Seal good by Custom: 4 Rep. 9. Precedents are good against a Statute. *Obj.* Here is a discontinuance of time, for none of these Writs have issued since 50 E. 3. *Ans.* Shall that take away the King's Right? 10 H. 4. *Fo.* 6. If the King be to have a Corody of a Bishop or Abbot, he shall not lose it, tho not demanded within time of Memory. *N. B.* 5. In a Writ of Right, if the King had once seisin, length of time shall not discontinue it. 22 H. 7. *Fo.* 20. by the Statute of *Mortmain* the Lord must enter within a Year and a Day, but the King may enter at any time. 35 H. 6. *Fo.* 26.

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If a Villain alien the Land, it binds not the King. Plenary six months, no Plea against the King. 6 Rep. 20. No Discontinuance of time, if the King hath a Right. 7 E. 4. 30. An Alien with another purchases Lands, and dies, the King not prevented by Survivorship; and in personal Goods no Prescription against the King, as appears by 35 H. 6. fol. 27. 'Tis objected, these Writs did not issue in all times. *Answ.* It is a casual Service, and there may be no occasion for this Defence in two or three hundred years, as in 4 Rep. 10. where a Man is bound to go with his Lord to the War; and Homage, Fealty, and other casual Services are for that reason out of the Statute of Limitation. Besides, these Precedents did not end with E. 3. for 7 R. 2. m. 18. 13 H. 6. m. 10, 14. pars 1. m. 14. a great number of Ships were commanded into the King's Service. 'Tis further objected, that what is good by Custom must gather Strength by Consent; but these Writs have always been cry'd down and petition'd against by the People, and their Petitions not expressly deny'd. *Answ.* Notwithstanding these Petitions, the Service was always continu'd; and the King's Answer was, *le Roy adviserà*, which is a mannerly kind of Denial that the King uses in Parliament: and 13 E. 3. the Writs for Shipping went out that very Year. 'Tis objected, it doth not appear these Writs were put in execution: But the Services were done, and Mariners Wages were paid by the Country those very years, Cl. 20 E. 2. m. 6, 7. 23 E. 1. m. 14. There some particular Men had Discharges, which were pleaded and allow'd.

3. That these Writs have issued, not in case of *Hannibal ad portas*, or of an Enemy discover'd, or sudden Invasion, but in case of Rumours of Dangers, or by way of Preparation, when the King conceives a danger may ensue: Cl. 48 H. 3. m. 2. *ad defensionem regni esse promptum*. Cl. 23 E. 1. m. 5. *dors.* *Si inimici venire contingent*. 24 E. 3. Remembrance in the Exchequer, upon a bare Information that there were a thousand Men in *Flanders* design'd to come and burn *Yarmouth*. Pat. 9 E. 2. pars 2. m. 26. Writs to all the Port-Towns between *Southampton* and

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and *Thames* to set forth Ships at their own Charge for defence of the Kingdom. *Sco.* 11. 12 *E.* 2. *m.* 18. The King commanded Ships should be sent forth from several Counties, *tam ad impediend. Scotos, quam pro custod. Maris.* 10 *E.* 3. Tho the Ships of *France* were there and in *Britain*, yet the King upon relation that they intended to invade the Realm, sent into most Counties to provide Ships: *Sco.* 10 *E.* 3. *m.* 30. *ut audivimus*, *m.* 13. *ut intelligimus*, *m.* 16, 22. *quod auditum*, *m.* 18. *do.* 12. *do.* 5. *do. in portibus transmarinis parat.* *Fra.* 26 *E.* 3. *m.* 5. *Quia vulgaris opinio regnum invadere*, therefore commands Ships and Land-forces. *Fra.* 10 *R.* 2. *m.* 23, 24. *Quia certi rumores quod Francia infra breve tempus hoc regnum invadere*: which Precedents for preventing a danger, are consonant to the reason of the Common Law. 17 *E.* 4. 4. A Man may have a Writ to bind him to the Peace, who lies in wait to mischief him. 13 *H.* 7. *fol.* 17. He that hath a Warranty, need not, stay till he is impleaded, but may have his *Warrantia Charta* presently. *F. N.* 40 *E.* 3. *fol.* 45, 46. If the Lord in antient Demesne demand of his Tenant (tho but verbally) other Services than he ought to perform, the Tenant may have a *Monstraverunt*, without staying till a Distress taken: And has not the Law provided as well for the King, if he foresees a Danger?

4. That the King commanded Shipping to be set forth without Advice of Parliament in the same years when Parliaments were sitting, and great Aids were given by them to the King *pro defensione Regni.* *Cl.* 48 *H.* 3. *m.* 2, 3. *dors.* *Pat.* 48 *H.* 3. *m.* c. *dors.* *Cl.* 48 *H.* 3. *m.* 30. A Tenth given by the Clergy *pro defensione Regni*, and yet these Writs issued that year for the same purpose. *Pat.* 2 *E.* 1. *m.* 7. *Pat.* 22 *E.* 1. *m.* 2. *Pat.* 23 *E.* 1. *m.* 1, 5, 6, 7. *Cl.* 23 *E.* 1. *m.* 5. *dors.* The same year the Clergy had granted a Tenth of all their Movables; Writs were directed to the several Sheriffs of *Sussex*, *Southampton*, *Dorset*, &c. for the taking up of all Ships, and to others to be in a readiness with their Ships, for sending forth Archers *ad proficiscendum in Fletu nostra*, for compelling Archbishops, Bishops, Earls, &c. to be aiding to

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to that Service; so none exempted, 10 E. 3. In a Parliament holden at Nottingham a Fifteenth was granted to the King for three years. *Pat. 12 E. 3. m. 2. pars 3. Cl. 12 E. 3. m. 28. pars 3.* A Tenth and Fifteenth were granted in Parliament. *Rot. Alm. 12 E. 3. pars 11.* Ten thousand Sacks of Wool there given him. *M. 31, 32. dorf. 2.* The Moiety of all their Wools there given him, which was all *pro defensione Regni.* *Cl. R. 12 E. 3. pars 3. m. 13.* The Clergy gave the King in Parliament *medietat. lanarum usque viginti mille Saccar.* *Cl. 12 E. 3. pars 2. m. 1. dorf. and pars 3. m. 30. 1. and 28.* The same year the King collected a Tenth and Fifteenth granted by the Laity, and the Clergy granted him a Tenth; all which he said he cited particularly, because not in the printed Statutes: And in the same year when these Aids were granted, the King sent forth Writs for Defence of the Sea and the Kingdom. *Rot. m. 12 E. 3. 1. pars m. 12.* *Walter de M.* being Admiral, appointed Commissioners *ad assidendum villas, ad contribuendum, &c.* *Cl. 12 E. 3. pars 1. m. 17. dorf.* The King commanded that the Goods of the men of Surrey and Sussex, who refus'd to contribute towards the Shipping, should be seiz'd, and their Persons imprison'd. *Alm. 12 E. 3. pars 1. m. 2.* A Commission *ad assidendum omnes juxta statum, &c.* and to seize their Goods and Chattels to contribute for the Wages of Mariners.

5. That those Aids have not only been requir'd of the maritime Towns and Counties, but likewise of the inland, as Buckinghamshire is. *Alfred* the first Monarch 827. *justit omnibus, &c. per totam Angliam.* *Arthurus Minuensis fol. 9. Florent. Wigorn. fol. 316. Huntington fol. 354, 365. and Mat. of Westm. fol. 387.* testify that King *Ethelred's* Commands for providing of Ships were universal throughout the Realm: so were the Laws before the Conquest, remember'd in *Lambert, cap. 10. fol. 106. Cl. 48 H. 3. m. 2.* *Bedfordshire* charg'd with the Guard of the Sea-coasts and for Wages. See the same Roll *m. 3. in m. 20. do. Rutland and Oxfordshire.* So *Pat. 48 H. 3. m. 7. Cambridg and Huntingdonshire.* So 24 E. 1. King's Remembrancers sive, *Rot. 77, 78, 79. Pat. 26 E.*



Ann. 1637. 4. m. 21. 23 E. 1. P. m. 5. Sco. 10 E. 3. m. 14. Cl. 13 E. 3. pars 3. m. 14. dorf. Sco. 12 E. 3. dorf. Some of the Counties aforesaid, and Nottingham, Darby, and Buckinghamshire (the County in question) And Claus. 1 R. 2. m. 18. Writs to Cambridge, Huntington, Nottingham and Darby, to provide Barges, tho they had none of their own. Fra. 7 R. 2. m. 18. Writs sent to most Counties, as well inland as maritime (and Bucks one) commanding all Knights, Esquires and Archers to come to the Port of Sandwich, *pro defensione Regni*: By which, and Cl. 9 E. 3. m. 13 E. 3. dorf. Pat. 23 E. 1. m. 6. and a great number of others, it appears, that the inland Counties are chargeable; for by Law every one who is to have benefit is contributory. 16 H. 7. fol. 13. The Feoffees whose Lands are liable to a Statute, shall have Contribution one against the other: So shall the Cognizors in a Recognizance; and Parceners upon whom a Warranty descends, shall be equally charg'd. 3 Rep. 13. *Herbert's Case*: If a Man bind himself and his Heirs in an Obligation, having Lands part by his Father and part by his Mother, the several Heirs to whom they descend, shall be charg'd. By the Charter of E. 1. the Ports were to find fifty seven Ships: But there is now a great Disability in the Ports, for the main part of the Trade is remov'd from most of them, except London, Newcastle, Bristol and Hull; one Portsman then being worth a whole Town now: And is it not reasonable, that in this Disability of the Ports, the Service of finding these Ships should be perform'd by inland Counties? Before the Statute of Sewers, if particular Men who were bound to repair the Sea-banks had not been able, the Country were to do it, for that they have the Gain or Loss: *Register* 123. *quod distringat omnes*, &c. 5 Rep. fol. 99. 10 Rep. 140, 141. *Case of the Isle of Ely*: It's agreeable that all who have *Salvationem aut Damnum* should contribute. Pl. 7 H. 4. m. 18. A Subsidy granted to the King for defence of the Realm was assign'd to certain Merchants; and Fr. R. 2. m. 8. certain Merchants had the Custody of the Sea: but in both these Grants was this Exception, unless a Royal Power

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Power come. From whence he drew this Conclusion, that in an ordinary Defence there may be no need of the inland Counties; but if a Royal Power or extraordinary Danger, tho not eminent, the King may require Contribution *per totam Angliam*. It hath been objected, That this *Navale Subsidium* hath been requir'd of some inland Towns, and they have been discharg'd; as *Beverley*, *Pat. 2 R. 2. pars 2. m. 42.* *Ans.* They were discharg'd by a Charter of Exemption granted them *in honorem S. Johannis Beverly*. And *Bodmin*, *Cl. E. 3. pars 2. m. 14. and pars 1. m. 35.* was discharg'd, because *Trussell* then Admiral was by his Commission to be furnish'd from the Ports at their own charges. For the same reason, *Scot. 10 E. 3. m. 15.* *Norwich* was discharg'd; and *Cl. 13 E. 3. pars 1. m. Colchester*, because not within the words of the Writ: But *Norwich*, *Cl. 13 E. 3. pars 1. m. 14.* was charg'd to find Ships.

6. That tho no Cause hath been declar'd in the Writ, no Danger manifest, nor against what Enemy, yet the King's Writ hath commanded Shipping. *Cl. 14 Jo. m. 2.* The King commanded all Ships to be made ready for his Service, when he should command them. Same Roll, *m. 6.* All Ships that could carry six Horses or more to be sent to *Portsmouth*. *1 Pat. 15 Jo. m. 4.* A Guardian appointed for the Sea-coasts, and all Men commanded to be *intendentes*. *17 Jo. Cl. m. 7. do.* Writs for taking of Ships, and bringing them into *Thames-mouth*; all without shewing any cause. *Pat. 13 H. 3. m. 5.* Writs to the Sheriffs of *Kent* and *Sussex*, to arrest all Ships to be at *Portsmouth* ready to go in that Service the King should command. *Cl. Roll 14 E. 3. m. 13.* To make ready one good Ship, to go in the King's Service whither he shall command it. *Cl. 23 E. 1. m. 5. do.* The King declares he will have the Sea-coasts guarded, and commands them to obey him who had the Custody. *Pat. 23 E. 1. m. 2.* The King writeth to all Archbishops, Bishops, Sheriffs, Knights, &c. to assist who had the Custody of the Sea. *10 E. 3. m. 37.* All Ships to be arrested, and sent to the Admiral *ad proficiscend.* &c. Same Roll *m. 5. do.* The matter fit for



Ann. 1637. for the Council, and not for the People to know. Same Roll, 20. The King to give no account thereof to his Subjects. 24 E. 1. m. 19. A hundred Ships to be taken up for the King's Service. Same Roll, m. 17. 9 E. 2. Pat. pars 2. The like Commands for taking up Ships. Cl. 12 E. 3. m. 11. do. The Ships to be ready to go where the King should appoint. So 17 E. 2. m. 11. do. Pat. 14 H. 6. pars 1. m. 14. Barges to be taken up *pro quibusdam arduis causis*; and in all the times of King John, H. 3. E. 1. E. 2. E. 3. and H. 6. Writs have gone out generally, and the Service conceal'd; for Resolutions of War are not to be communicated but to a Council of War, and not to the Counsel at Bar, who have objected against this Writ of 4 Aug. 11 Car. because the King hath not declar'd the Cause.

7. And lastly, every particular of this Writ of 4 Aug. is warranted by many Precedents. For the direction, it hath been sometimes one way, sometimes another: The Reasons given in this Writ, *Perculum eminens pro defensione Regni, tuitione Maris, securitate Subditorum, salva conductione Navium, &c.* are all express'd in the Records: 9 E. 3. m. 12. Sco. 10 E. 3. m. 20. Malm. 12 E. 3. m. 1, 12. Malm. 13 E. 3. m. 13. In those Writs are the power of Assessment, Distress, Imprisonment, Seizure of Lands and Goods: And that it was to be done at the Charge of the Countie; appears by Rot. Sco. 8 E. 3. m. 9. 4 Sco. 10 E. 3. m. 2. do. 60. 10 E. 3. m. 21. do. His Predecessors not bound to bear any Charge, tho *pro defensione*. Alm. 12 E. 3. pars 1. Lynne compelled to contribute *juxta quantitatem, pro custodia maritima*. The like in the Close Roll 12 E. 3. m. 8. They object, that the King can no more assess the People for Sums uncertain, than the Lord can assess his Tenant for Ecuage uncertain; which Littleton saith, fol. 20. must be done in Parliament. Answ. This is a Service not requir'd by Tenure, but by a King from his Subjects; as for the making his eldest Son a Knight, or *per file marryer*, which are not certain at the common Law, and yet may be assess'd without Act of Parliament. Glanvil, lib. 9. cap. 8. Brit. fol. 57. cap. 27. Bract. lib.

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*lib. 4. cap. 16.* The King at Common Law might require an Aid uncertain, and might assess it as he pleaseth. *11 Rep. 68.* the Statute of *Westm. 1. cap. 15.* which puts reasonable Aid in certain, binds not the King; *a fortiori* he is not tied to a certainty for Defence of the Realm, where no man can tell what the Preparation or Charge will be. They say the Sheriff is not an Officer sworn to execute these Writs. *Answ.* He is sworn to execute all Writs deliver'd him for the King's Service. *Scot. 10 E. 3. m. 13. Cl. 15 E. 3. m. 17.* These Writs have been oftentimes directed to Sheriffs, as well as to Commissioners. *23 E. 1. m. 5. do. 24 E. 1. Rot. 79. ex parte Regis.* The Sheriffs, &c. Lands extended for their Negligence of these Writs. *25 E. 1. ex parte Regis.* A Commission to enquire thereinto: And by the Register it appears, Writs went generally to the Sheriffs. As for the levying by Distress and Imprisonment, commanded by this Writ, 'tis so in all the Precedents vouch'd. *5 Rep. 64. Clark's Case.* If one refuse to pay what he is order'd by a Corporation that hath power to make Ordinances, he may be distrain'd. *T. 7 H. 7. Rot. 3.* A Benevolence distrained for. *Scot. 10 E. 3. m. 1. do.* A Writ for finding Ships, and the Refusers Lands and Goods seiz'd. *M. 2.* Under pain of Forfeiture of Life; *Rot. Fran. 21 E. 3. pars 1. m. 11.* of Life and Estate; *11 E. 3. m. 2.* Imprisonment. *Cl. 12 E. 3. m. 18. do. Fra. 10 R. 2. m. 23.* Imprisonment, and Forfeiture of Lands and Goods. *Cl. 13 E. 3. pars 1. m. 36. do.* Seizure of Lands. The distance of time is likewise objected; seven months between the Test of the Writ and time of Rendezvous, in which time a Parliament might have been called, and an Aid granted: But they may remember the forty days between the Test and Return, the time spent about a Speaker, the Solemnity before they begin, their grand Committees, their reading a Bill thrice, their Debate about it, and its passing both Houses; then a time for levying the Mony, for the return of it, and for expending. See *48 H. 3. m. 4. do. Cl. 23 E. 1. m. 5. do. Scot. 11, 12, 13 E. 3.* And for the *Spanish* Invasion, the Pre-

Ann. 1637. Preparations for Defence began in October 1587. but the Spanish Fleet set not forth till next June: No Parliament was call'd that year; and by the Letters and Orders of Council it appears, the Ships and Defence were at the Subjects charge: So no Clause in this Writ but is warranted by former Precedents.

He observed, that William I. did not abrogate the former Laws, but was sworn to keep *antiquas Leges Anglicanas*, as appears in Lambert 125. By his Charter to the Abbey of Battail he freed them from *Dane-geltis & omnibus Auxiliis*; so they had been otherwise subject. By the Writs Pat. 7 Jo. m. 3. 14 Jo. m. 6. Cl. 12 Jo. 7. do. it appears they were not discontinued then. Cl. 14 H. 3. m. 12. do. Cl. 15 H. 3. m. 17. do. Cl. 26 H. 3. Pat. 48. H. 3. m. 3. do. 4. do. These and several others issued in that Reign for Shipping. Vasc. 22 E. 1. m. 11. do. n. 6. The King there styles himself *superior Dominus regni Scotia*, and sent his Writs to the King of Scotland, that he should *in fide & homagio* come to London with Horse and Arms, &c. to aid him in the Recovery of part of Gascoigne: which Power extended to Ireland also, Vasc. 22 E. 1. n. 5. dors. And the same Rot. Vasc. m. 13. dors. several Earls of England and Ireland, and those of the Ports had the like Command. And Pat. 23 E. 1. m. 1, 5, 7. All Ships of forty Tuns were to be furnish'd out. Cl. 23 E. 1. m. 5. same Roll, m. 40. Every man that had Land in the maritime Towns was to contribute. And that Writ of 23 E. 1. m. 5. commands all the Lords spiritual and temporal, even in contingent Cases, *quod sint intendentes*, &c. *secundum statum*, &c. for the Custody of the Sea; and commands the several Sheriffs *per corpora, bona & terras*, to distrain. 24 E. 1. m. 15. The like Command to the Lords and Commonalty. Cl. 24 E. 1. m. 19. 24 E. 1. Rot. 76. Cl. 25 E. 1. m. 26. do. and m. 12, 20. The like Pat. 31 E. 1. m. 20. Forces in Cumberland rais'd to resist the Scots, and the Goods of the Refusers seiz'd. Cl. 2 E. 2. m. 21. Several Towns commanded to set forth Ships. Rot. Pat. 9 E. 2. pars 2. m. 6. Pat. 16 E. 2. m. 11. A Writ to array all between sixteen and sixty, and to take the Goods and Lands



Lands of the Refusers. *Pars* 1. *m.* 7. of the same Roll. *Cl.* 20 *E.* 2. *m.* 160 *Vasc.* 18 *E.* 2. *m.* 18. *Cl.* 2 *E.* 3. *m.* 13, 22. *do.* 3 *E.* 3. *Rat.* *pars* 2. *m.* 6. 10 *E.* 3. 11 *E.* 3. 12 *E.* 3. and 13 *E.* 8. (being the years before remember'd) *Pat.* 19 *B.* 13. *pars* 1. *m.* 26. 21 *E.* 3. *pars* 1. *m.* 17, 26. *Fran.* 21 *E.* 3. *pars* 1. *m.* 11. *Fran.* 25 *E.* 3. *m.* 9. *n.* 26, 31. 26 *E.* 3. *Pat.* *pars* 1. *m.* 7. *Fra.* 28 *E.* 3. *m.* 6. *Scot.* 29 *E.* 3. *m.* 13. *Fran.* 40 *E.* 3. *m.* 37. *Fra.* 50 *E.* 3. *m.* 45. *do.* All these Writs were for the providing of Ships, guarding of the Seacoasts, and raising of Forces at the charge of the Inhabitants: So that such Writs have issued in all Ages and Times for Defence of the Sea and Land. *Parl.* 6 *R.* 2. *n.* 42. They desire the King would live upon the Revenues of his Crown, for the Profits of Escheats, Marriages and Forfeitures, are for the Defence of the Realm: This was objected as a Record against the King, whereas the Answer makes clearly for him; which was, That the King would do as his Lords should advise him, and as should be most for his Honour and Profit. *Fra.* 7 *R.* 2. *m.* 18. *Pat.* 8 *R.* 2. *pars* 2. *m.* 15. *Fr.* 10 *R.* 2. *m.* 23. *Parliament* 5 *H.* 4. *n.* 24. 3 *H.* 5. *m.* 36. *do.* *Pat.* 13 *H.* 6. *m.* 10. *Pat.* 14 *H.* 6. *Pat.* 28 *H.* 6. *m.* 2, 13. 1 *H.* 7. *pars* 1. All these Precedents shew that Writs issued in those times for the Defence of Land and Sea.

At another day Mr. Attorney General continu'd his Argument, and endeavour'd to answer the Objections that had been made by the other side.

Attorney  
General's  
3d Day's  
Argument.

1. Out of several Acts of Parliament: *Object.* 1. The Act or Charter of William I. cited in *Matthew Paris*, saith, *Quod omnes liberi homines sint quieti ab omni Tallagio, &c.* *Answ.* This trenches not upon the Royal Power, which was inherent in the Kings of England before the Conquest, and the next words explain it to be intended only *ab omni injusta exactione*; but this Power cannot be term'd so, it being of common Right: And the same Law saith, *sumus fratres conjurati, &c.* so far as the Defence of the Realm. *Obj.* 2. The Charter of 17 *Jo.* *Nullum scutagium vel auxilium nisi per commune Concilium, militem faciend' & maricand' fil', &c.* *Answ.* This was granted at



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*Running-mead*, when there was open Rebellion, and not by the King in Parliament, but was an inforc'd Act from a distressed King. It was enacted in Parliament 15 E. 3. That no Peer should be question'd but in Parliament, no great Officer remov'd but in Parliament, nor any Clergyman come before temporal Judges: These Acts, as derogatory to the Crown, were the same year repeal'd by a Charter of the King's in print; and why has not this Charter of 17 Jo. bin at all confirm'd, when *Magna Charta* hath been confirm'd 31 times? and why has it not been heard of since, but because it trencheth too high on the Prerogative? He said, the Judges had resolv'd that Aids due of common Right, are not taken away by the general words of an Act of Parliament. *Magna Charta* cap. 29. The words *Lex Terra* do not impeach this Royal Power, which is part of *Lex Terra*. And the Writs that issued 14 H. 3. 15 H. 3. 26 H. 3. 48 H. 3. and in the Times of the succeeding Kings, to provide Shipping at the Charge of the Inhabitants, shew that that Power was not taken away by *Magna Charta*. Object. 3. The Statute of 25 E. 1. (as 'tis printed) *de Tallagio non concedendo; Nullum Tallagium vel Auxilium sine voluntate Episcoporum, Baronum, Burgenfium, &c.* Answ. Admitting it to be an Act of Parliament (which Mr. Solicitor in his Argument question'd, because not inroll'd among the Acts of that time, and by the penning seems rather an Abstract; nor was it sent over to E. 1. to be seal'd and confirm'd as other Acts were) he said, this cannot be intended to take away those Aids that are due to the King by virtue of his Royal Power, and are *inter jura summa Majestatis*; for then the Aids to knight the King's Son and marry his Daughter would have been excepted: but it is resolv'd, that those Aids were not taken away thereby; and so it is declar'd by 25 E. 1. cap. 11. By 12 H. 7. The Statute, *Quia emptores terrarum*, extends not to take away the King's Tenure. And this Royal Power is expressly reserv'd to the Crown by the Statute of 25 E. 1. cap. 5. 6. where the King grants, That the Aids and Taxes which had been given him should not be drawn into Custom, saving the antient Aids due and accustom'd

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But this Aid for Defence could not be meant, for it was never given, it being a Branch of the Royal Power; and if it were, yet it's within the Exception, being an Aid accustom'd. And in the end of the Parliament-Roll, the King and all present declar'd his Prerogatives to be sav'd to him; and by the Practice since that Statute it appears, That this Royal Power was not intended to be taken away thereby. *Object.*

4. Tho there be a saving of antient Aids in that Statute of 25 E. 1. yet there is no such saving in that of 29 E. 1. *Answ.* There is no such Record as is suppos'd in 29 E. 1. for that which they call an Act of Parliament, is but a Record of the Perambulation of the Forest, and nothing therein derogatory to the Crown. *Object.* 5. The Statute of 1 E. 3. cap. 5.

That none shall be charg'd to arm himself otherwise than as formerly, nor go out of his Shire but where necessity requires, on upon coming of foreign Enemies within the Realm. *Answ.* This Statute relates to what was formerly done, and it appears that in the times of King John and E. 1. the Subjects were to set forth Ships at their own charge; and so was it afterwards in E. 1's time; and the Writ in question requires no other, but where in the King's Judgment there is a necessity. *Object.* 6. Statute 1 E. 3. cap. 7.

where Men at Arms were convey'd into Scotland and Gascoigne without Wages, the King saith, it shall be done so no more. *Answ.* These were foreign Wars, and so foreign to this business: For Scotland, tho subject to the Dominion of England, yet is a divided Kingdom. 8 R. 2. Continual Claim; Com. 376. A Stranger shall avoid a Fine, because in Scotland when levied, *Bract.* 436. An Abjuration into Scotland is good. 6 R. 2. Protection 46. Scotland is out of the Realm. *Object.* 7. Statute 10 E. 3. cap. 7. Men at Arms, &c. shall be at the King's Wages. *Answ.* It speaks only of those that go out of England; but the being upon defence of the King's Seas, or of the Coasts, is no going out of England, as appears 6 R. 2. Protection 40. *Object.* 8. Statute 25 E. 3. cap. 8. None shall be constrain'd to find Men at Arms, &c. other than those who hold by such Services without common

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mon Consent. *Ans.* This Statute hath not taken away the afore said Statute of 1 E. 3. cap. 5. which is confirm'd by the Statute of 4 H. 4. cap. 13. Now that of 1 E. 3. cap. 5. referres a Power to the Crown, where Necessity requires, for sudden Enemies come. Nay soon after the making of this Statute of 23, it appears by *Rol. Fran. 26 E. 3. m. 4. 5. Fran. 28 E. 3. m. 6.* that Ships were commanded for defence of the Realm at the Charge of the Subject. *Object. 9.* Parliament Roll, 2 R. 2. n. 3. The Earls, Barons, and other Sages declar'd they could not charge the Commons, but in Parliament. *Ans.* This is no Act of Parliament, but only a Barly or Discourse in the Nonage of a young Prince, without the Royal Assent. *Object. 10.* The Record of 9 R. 2. *Par. n. 10.* A Tenth and half and Fifteenth and half were granted the King, on condition they might appoint Officers for expending the Money. *Ans.* The like was done in the Parliament 21 Jo. but doth a Grant of Aids upon condition take away the Royal Power? Besides, this was granted *pro viagio Johannis Regis de Castell*, and not for the Custody of the Sea. *Object. 11.* *Parl. 9 H. 4. n. 2.* The like Aid was granted with a Protestation that it should not be brought into Example. *Ans.* This signifies no more than the other. *Object. 12.* The King's Speech entred upon the Roll, 7 E. 4. *Parl. n. 7.* That he would not charge his Subjects, but upon great and urgent occasions. *Ans.* This was but a gracious Speech of the King to his Subjects, that he would charge them only for the Defence of the Realm. *Object. 13.* Statute of 1 R. 2. cap. 20. That the Subjects should not be charg'd by any such Exaction or Imposition. *Ans.* This now requir'd is no Benevolence, but a legal Due. *Object. 14.* The Statutes of Tonnage or Poundage granted for the Defence of the Realm. *Ans.* None of those Statutes are now in force, and by the Statutes of 1 Eliz. 1. *Stat.* it was given towards the King's Charges for defence of the Realm, so not intended of any extraordinary Defence. And so it is now; for the Contributions now levied are but towards his Charges, which have been greater than that



that of any of his Progenitors: And 'tis acknowledged by those Acts, that this Defence could not be done without the intolerable Expence of his Majesty, and consequently cannot be wanting at any time. *Object. 15.* The Petition of Right, 3 Car. *Answ.* It was never intended or propos'd in that Parliament (whereof he was a Member, and present at the Debates) that the King's Power for Defence of the Realm by Shipping, or any other Power by his Prerogative, should be taken away or lessen'd; nor did the King grant any new thing, but only confirm'd the Subjects antient Liberties.

There are other Objections the other Side have made out of the Records, and Reasons they have insisted on. *Object. 1.* A scandalous one made by Mr. Holborn, That at the time of making those Statutes of 25 E. 1. 28 E. 1. they were positive, without any such *Salvo* of the King's Prerogative: But that all Acts before H. 4 being penned by the King's Counsel, those *Salvos* were afterwards added by them. *Answ.* He had there the Parliament-Records, where these Exceptions are recorded as fully as any of the rest, and those Laws are since confirm'd; and he might have objected the same thing against *Magna Charta*. *Object. 2.* Parliament-Book, 33 E. 1. fol. 105. The King upon Petition order'd the Treasurer should give satisfaction for the Mony taken. *Answ.* This Mony was taken merely for the King's use: Here the Record was read. *Object. 3.* Parl. 8 E. 2. m. 8. The Friars of *St. John of Jerusalem* petition'd for 2354 l. taken out of the Treasury. *Answ.* The Mony was taken to another purpose; to prove which, he pray'd the Record might be read. *Object. 4.* Pat. 26 E. 1. m. 21. Several Commissions issued to inquire *de gravaminibus* of Wools and other Particulars *de custodia Maris*, wherein there were no Clauses of Forfeiture of Lands, Goods and Chattels, or Seizures. *Answ.* These Commissions were only to inquire of those Taxes that were unequally laid; and the answer was, That if any thing were unjustly taken, it should be restor'd; but not a word to impeach this Royal Power: And the Penalties were as

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high in this Commission as before. *Object. 5.* The Kings of *England* have always consulted with the Parliament concerning the Defence of the Realm, and the Aids for Defence have been granted by Parliament. *Answ.* If in time of War the King accepts of Aids from the Parliament, this doth not impeach his Royal Power to take them without them; no more than the erecting of the Court of Wards by Act of Parliament, took away his Power to have done it himself. *Object. 6.* *Rot. Alm.* 12 E. 3. *pars* 1. m. 22. That E. 3. was so penitent for what he had done, that he sent to the Archbishop of *Canterbury* to pray for him, and desir'd the People would forgive him for the Taxes he laid on them. *Answ.* It was only to pray for his Voyage beyond Sea; and the Impositions there mention'd must be some other, and not the Shipping business: And like Prayers were desir'd of the Archbishop, in 25 E. 3. 26 E. 3. and 50 E. 3. *Object. 7.* *Fra.* 7 R. 2. m. 13. The King assign'd Tunnage and Poundage to *Henry* Earl of *Northumberland*, for Guard of the Seas. *Answ.* It appears by the Roll to be for ordinary, not extraordinary Defence. *Object. 8.* Parliament-Roll 13 H. 4. n. 43. The Office of admeasuring Linen-Cloth, granted with several Fees, adjudg'd a void Office; whence they concluded, an Office granted with a Fee is void in Law. *Answ.* It appears 4 E. 1. That the Office of Wools and Linen-Cloth was one intire Office; but this Grant trench'd upon the former Office, and therefore void. 22 H. 6. fol. 9. The surveying the packing of Cloth a good Office. 27 H. 4. fol. 28. The like Grant from the King good. So 39 H. 6. Marshal of the *King's Bench*. 12 H. 7. 15. Warden of the Fleet. *Fitz.* saith, an Office granted without a Fee is void; and now at Bar 'tis said to be void, if granted with a Fee: By this all Offices within time of memory erected for the publick Good, as the *Subpœna* Office in *Chancery*, &c. must be shaken. *Object. 9.* The King cannot impose upon the Subject by his Charter or Writ, but it must be done by Parliament; and these Contributions are in substance Impositions. *Parl.* 5 E. 3. m. 24. Lord *Latimer*



mer was sentenc'd for perswading the King to lay Impositions : Dr. *Manwaring* was sentenc'd for preaching and writing against Property. *Answ.* He said he had not at all insisted upon the King's power of Imposition, nor is that now the question; for here no man's Property is invaded, nor any Seizure of Goods, unless for a wilful Contempt, in which case a man may lose his Property. *Dyer fol. 16. & 13 Eliz. 269. 34 H. 6. 49. 9 H. 7. 6.* If a Subject refuse to come into the Realm upon the King's Command, or to appear in a Court of Justice, or otherwise wilfully contemn the King's Command, he shall forfeit his Goods, or may be distrain'd. He said, the Lord *Latimer* was sentenc'd, for that he himself laid the Impositions; That Dr. *Manwaring's* Sentence is nothing to this purpose, for this Writ denies not the Subject's Property. *Object. 10.* The Commission 2 Car. for borrowing Mony for the *Palatinate* was call'd in. *Answ.* This was for the Recovery of the *Palatinate*, not for the Defence of the Realm. *Object. 11.* By divers Records it appears, the King hath paid the Wages of Mariners and Soldiers : And 21 E. 3. Ro. 77. *ex parte Rem. Regis*; The King commanded Ships to be built, and he to pay for them. *Answ.* So he doth at this day, and hath paid for them : And if he hath paid Mariners and Soldiers, doth it follow, that he cannot command the Mariners to be paid at the charge of the Country? *Object. 12.* Dr. *Cowel's* Book was call'd in. *Answ.* Not about this matter; but for writing things derogatory to the Crown, and speaking irreverently of the Common Law. *Object. 13.* The King hath a Revenue for defraying all ordinary and extraordinary Charges, and for the Guard of the Sea; as Tenures by Knights Service, &c. Tunnage and Poundage, Service of the Ports, and Profits of the Sea. *Answ.* It is not, said he, for us Lawyers to pry into the Secrets of the King's Revenue : Knights Service was instituted for the Service of Scotland and Wales, 19 R. 2. *Fitz. Guar. 165.* and old Tenures *fol. 10.* But Tunnage and Poundage was given merely for the Charges of this Defence, and yet only for the ordinary; as likewise were the seventy five Ships



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out of the five Ports; which yet was but for fifteen days at their own Charges, tho they have been commanded *ultra debita*: and the Profits of the Sea in Sturgeons and Whales is a proper business towards this Defence. They have admitted nothing, but that the King may grant a Toll in a Fair, or Market, or Pontage, because an *ad quod damnum* lieth: but the King may grant a Fair without an *ad quod damnum*. *Object.* 14. *Rot. Sco.* 1 E. 3. m. 8. A Writ to the Treasurer to pay for the Shipping at Yarmouth. *Ans.* J. S. was then Admiral, and going into Scotland; so the Defence was for a foreign War. *Object.* 15. There needs no Command by the King's Writ to furnish Ships; for every man will do it by the Instinct of Nature where there is a Necessity. *Ans.* A strange Position, that every man shall be his own Defender, and tending to a Democratical Government: and Mr. Holborn hath as strangely apply'd the Rule, that a Mischief is better than the Inconvenience, that every man's Property be taken away when the King pleaseth; for the Mischief here is not a particular Mischief, the Loss of a Kingdom being the Loss both of Liberty and Estate. *Object.* 16. *Parl.* 2 H. 4. n. 22. *pur faire Barges*: The King repeal'd his Commissions for building of Barges. *Ans.* He did so for the present; but for the future in case of necessity he would advise with his Lords: nor doth it appear, that these Barges were for the Defence of the Realm.

He then came to the Objections made against the Writs and Proceedings in this Case. *Object.* 1. No sufficient Danger was expressed in the Writ of Aug. 4. and if said to be supply'd by the *Mirrimus, quia salus*, &c. that is no good Affirmative. *Ans.* There is no need of representing the Danger in the Writ; 'tis enough that the King knew the Danger. *Object.* 2. *Salus* is a physical word, and signifieth Health, and there must be no Metaphors in Writs. *Ans.* *Salus* is taken by Grammarians for Safety; and there are more Metaphors in the Register than in any Book: See Register 61. *Turba*, &c. *Object.* 3. The King's Testimony by his Writ is not sufficient. *Ans.*

We

We are bound to give credit to a *Teste meipso*: 1 *13 Car.*  
*Eliz. fol. 105. ne exeat Regnum*; The King affirms  
*J.S.* will go beyond Sea, no Averment against it.  
*Hil. 20 E. 1. coram Rege Rot. 14. Rex est superlati-*  
*vum Recordum*, which was the Saying of the Judges,  
 and not of the King's Counsel, as was mistaken by  
*Mr. Holborn. 11 H. 7. fol. 5. 5 E. 4. 30. 21 E.*

14. 16. And shall the Judges give credit to the  
 Certificate of the Marshal of the King's Host, a  
 Captain of a Company, a Bishop in case of Bastar-  
 dy, a Mayor and Aldermen by the Recorder, and  
 not to the King's Certificate by his *Mittimus*? *Ob-*  
*ject. 4. A scire facias* ought not to issue for this, it  
 being no Duty to the King. *Ans.* It's a Duty to  
 the Commonwealth, and whosoever detains any pub-  
 lick Duty, may be question'd by the King. 27 *Ass.*  
*Pl. 17. Hil. 20 E. 3. Rot. 57.* Mony levied on the  
 County for arraying Archers, but misemploy'd, was  
 recover'd by Indictment at the King's Suit. 11 *H. 4.*  
*fol. 2.* The Goods of a Stranger may be distrain'd  
 for the Fees of the Knights of the Shire, because for  
 a publick Duty. *Register 19.* the King commanded  
 the Sheriff to levy them; and *Pat. 14 E. 1. m. 1, 14.*  
 An account to be taken of the Murage. *P. 15 E. 1.*  
*coram Rege 70. do.* *Rippon* was besieg'd, and they gave  
 Hostages to pay the Besiegers 700 *l.* and the King's  
*Bench* order'd them to redeem the Hostages. *Int'*  
*Co'ia Hil. 5 E. 4. Rot. 4. Aurum Regina* due to the  
 Queen may be levied by Exchequer Process in the  
 King's name.

He then cited some judicial Records: 24 *E. 1. ad*  
*custodiam Maris*: *Barkshire* an inland County re-  
 fus'd to contribute; Process went out of the Exche-  
 quer against the Lands, Tenements, Goods and Chat-  
 tels of the Defaulters, and their Bodies with Horse  
 and Arms to be sent to *Portsmouth*. The same year,  
*ex parte Rem. Thesaur.* upon notice of some Prepa-  
 rations in *Flanders*, the Court of Exchequer order'd  
 all to be call'd together for defence of the maritime  
 Ports. *Ex parte Rem. Regis 24 E. 1. Rot. 8.* *Henry*  
*Hussey* was assessed a whole Horse for the Mannor  
 of *W.* in *Barkshire*, *pro custod. marit.* He complain'd  
 in



*Ann. 1637.* in the Exchequer, for that he had not the whole Mannor; so he submitted to the Power, but only desir'd a Contribution. 25 E. 1. Rot. 74. The Abbot of *Robertsbridge* being distrain'd *pro custod. marit.* for Lands in an inland Town in *Kent*, the Defendant pleaded the Abbot was assesse'd for such and such Lands: The Abbot reply'd, he was before assesse'd for those Lands: The Defendant said, the Lands for which he was now assesse'd were other Lands; whereupon Issue was join'd: So the Abbot admitted the power of Taxing. Hil. 16 E. 3. Rot. 23. *coram rege*: It appears there, that the Mony paid to the Archers and Hoblers was at the County's charge, 13 E. 3. Parl. n. 9, 11. The Commons confess'd they had no Conuſance *de custodia marit.* and that the Maritime Parts ought to defend at their own Charges. Parl. 21 E. 3. Rot. 20. When the Commons petition'd *de garde le Mare*; the Answer was, *soit garde fait*: and that was at the Charge of the Country. Fra. 20 E. 3. pars 1. m. 17. P. 22 E. 3. *inter Co'ia* in the Exchequer. P. 22 E. 3. m. H. P. 25 E. 3. m. 25 E. 3. P. 27 E. 3. P. 28 E. 3. Trin. 21 E. 3. Rot. 3. 21 E. 1. Pipe-Roll m. 22 E. 3. Parl. *coram Baron.* By these Records, and several in 29 and 30 H. 4. and an infinite number of others, it appears, that those who were at some distance from the Sea, were to find Archers and Hoblers at their own Charge, and the Lands and Goods of the Defaulters were seiz'd by a *Capias in manus* out of the Exchequer: All which affirm the King's power in assessing and levying.

He then made a short Recapitulation of what he had said, and pray'd Judgment for the King.

Part of  
Mr. Hol-  
born's first  
day's Ar-  
gument.

Mr. *Holborn* had argu'd four days for Mr. *Hamden* next before Mr. Attorney General argu'd; which being much of it to the same effect with what Mr. *St. John* had said before, we shall not trouble the Reader with a Repetition; only there being some few Passages in his first day's Argument in reply to Mr. Solicitor General, who had argu'd before him, that gave the Court occasion to reflect upon his Argument, I shall insert them here. He laid the Questions were three: 1. Whether, as this Case appears upon



upon the Record, the King could 4 Aug. 11 Car. (the date of the Writ) charge the County of Bucks to find a Ship of War? 2. Admit it, yet whether he could empower the Sheriff to assess the County. 3. Admitting that too, yet whether he can levy the Mony unpaid by *Certiorari* and *Mittimus*, as he might do were it his own Debt?

As to the first of these Questions, he said the King's Solicitor had stated the Case thus; viz. That the Writ dated 4 Aug. 11 Car. (the ground of this Assess) was directed into *Buckinghamshire* and all the Counties of *England*, for raising of Mony towards providing Ships for Defence of the Kingdom, with a notable Circumstance, *quia Salus regni periclitabatur*, which is confess'd by the Defendant's Demurrer, and testified by the King himself in the *Mittimus*; and the King is *Recordum superlativum*, as he is stil'd 20 E. 1. in the great Case between the Earls of *Glocester* and *Hereford*: So that the question is, whether the King finding in his Judgment the Safety of the Kingdom necessarily and unavoidably to require the Aid demanded by the Writ, may not command such Aid for saving the Kingdom? He said, he took three Exceptions to the Question thus stated, which are things taken for granted, but he could not agree to them: 1. That at least in the King's Judgment the Kingdom was in danger to be lost 4 August. 2. That the Danger was so instant, that it could not stay for a Parliamentary Supply. 3. That for the truth of it, the Certificate under the Great Seal is sufficient. To find out whether the Record doth warrant these three things, recourse must be had to the Writ 4 Augusti and *Mittimus*. For the Writ, the Dangers there express'd are, That certain Pirates, as well *Mahometans* as others, took upon the Sea, and spoil'd the Goods and Merchandizes of the Subjects not only of the King, but of those in amity with him, and led the Men into Captivity; and this is only *quia datum est nobis intelligi* that the Pirates molest the Merchants: Here's not a word of Danger from Enemies, but from Pirates; nor of Danger to the Kingdom, but to Merchants. The Record goes on, *consideratis etiam periculis, &c.* This is not positive,

Ann. 1637. sitive, the Dangers are but *consideratis*; and it appears not whether these Dangers are in point of Safety, or in point of Molestation only; nor is any such particular Danger express'd, which requir'd this instant Command in the Writ, no not in the King's Judgment, but a Parliament might have been call'd time enough: So the Conclusion from these Premises can be only *convenit accelerare*, with all the hast that can be made by Law. There are two hundred and odd days between the Test of the Writ and the Rendezvous, and a Parliament requir'd but forty days for meeting, and would have had the Remainder of two hundred days to have consider'd of the Means of a Defence; and notwithstanding those Expences of time cunningly number'd up by Mr. Solicitor, 'tis plain, that such things may be done sooner in case of necessity. Then for the *Mittimus*, the only Clause there that gives colour to the Case, is *quia Salus regni periclitabatur*, which they say we have confess'd by our Demurrer; and if that hold not, the King who is the Judg of the Danger saith it, and hath certified sounder the Great Seal. To which he answer'd, 1. Those words *Salus regni periclitabatur*, are not positive, but relative, and are only a Comment on the Writ or Abstract of the Dangers mention'd therein, for the Clause was brought in on the Return of the Writ; and when we have the Writ it self, the Comment is not material. 2. He said he doubted whether after the King had put particular Reasons in the Writ 4 Aug. the Law permits further Clauses of the same nature and to the same end to be put in an After-writ; and if not, the Demurrer will be no Confession of any Danger. 3. *Salus* signifies Health, and is applicable only to a natural Body, not a Body Politick, unless by a Metaphor; and Metaphors are dangerous, and not to be us'd in Writs or Pleadings: nor can *Salus periclitabatur* imply any such Danger, as the Loss of a Kingdom. A Physician may say his Patient hath not his Health, but that implies not that he is in instant danger of Death; and a thing may be in action, which twenty years hence, if not prevented, may lose the Kingdom: but this will not make good the Case, as it is put.



put. 4. As for his Majesty's Opinion express'd in the *Mittimus*, that *Salus regni periclitabatur*, he conceiv'd that in legal Proceedings, his Opinion and Certificate in matters of fact is not binding. 5. Tho it now appear by the *Mittimus*, that 4 Aug. the Kingdom was in danger of being lost, yet that is not sufficient, unless it had appear'd so by the Writ 4 Aug. it self: For the Writ and Declaration in Law must contain so much of the matter, as may warrant the Demand; for if the Danger now declar'd makes the Case, the Subject by disobeying the Writ 4 Aug. where no such Danger is declar'd, may be made a wrong Doer *ex post facto*. 22 Aff. 5. 24 E. 3. Br. *Coram*. A Commission without expressing the Cause is not good: And in this Case, they of the King's side fearing the Writ 4 Aug. was not so good as they would have it, have put this *Salus Regni, &c.* into the *Mittimus*, tho not to do them any good, yet to cavil. 6. Tho the King had said the Kingdom was in such instant Danger, and he could not stay to expect the Consideration of a Parliament, yet if the contrary appears in the Record, then neither is the Demurrer a Confession, nor the King's Certificate conclusive.

He said he had now so par'd the Case, that on the Writ 4 Aug. no danger appear'd of the Kingdom's being lost, nor in the *Mittimus* any express words of instant Danger; and if there were, it should have been in 4 Aug. That the contrary appears in the Record, and the Certificate is not concluding: And then he said the Case stood thus, That tho there be no actual Invasion, nor known or declar'd Enemy, yet the King in his Judgment 4 Aug. 11 Car. apprehending and foreseeing the Kingdom in danger to be lost, and that the instant and unavoidable Danger requires this Aid; Whether the King out of Parliament, by his Regal Power, can command this Supply? He said, he had labour'd all he could to decline this the main Question, and had learnt out of a Speech of his late Majesty, what it is to debate the Question, what the King can do by his Regal Power; and offer'd to their Lordships whether they would determine



Ann. 1637. determine the Question upon the framing of the Case as it is in the Record, before it be further argu'd. But the Court telling him, they did not use to adjudg Cases by Fractions, and that if he kept within his bounds he should not be interrupted, he thus proceeded: He divided his Argument into two parts; 1. His negative Part, That the King cannot out of Parliament charge the Subject for Guard of the Sea against Pirates, or for the ordinary Defence of the Kingdom by Land or Sea, tho the King judg the Kingdom to be lost and unavoidably endanger'd. 2. His positive Part, That the King is to be at the charge for the Guard of the Sea against Pirates, and for Defence of Land and Sea against Enemies, as far as he is able; and for this he hath a Provision and Consideration, especially for Sea-service. His negative Part he endeavour'd to prove, 1. From Reason, drawn from the fundamental Policy of the Frame of this *English* Government, in the necessary Attendance of the publick Advice in Parliament upon the Royal Power. 2. From the absolute Property the Subject hath in his Lands and Goods. Here he extoll'd the King to a great height, and said, Were the King immortal, as he deserv'd, and would his Successors be Heirs to his Vertues and Crown, he could wish the Regal Power were unlimited and free from political Advice. But he was taken up by the Lord Chief Justice *Finch*, who said, it belong'd not to the Bar to talk of suture Government, or to bandy about succeeding Princes, when the King had a blessed Issue, so hopeful, to succeed him in his Crown and Vertues. Mr. *Holborn* proceeded in his Argument, and took occasion to speak of Dr. *Cowel's* Book, where he affirmed, that the Power of Parliaments was but a politick Mercy in the King; for which and some other Passages the Book was complain'd of in Parliament, and call'd in by King *James's* Proclamation: He said, that on those Reasons he had offer'd, the Cause must stand or fall, &c. Thus far the Arguments *pro* and *con* in Mr. *Hamden's* Case.

His Majesty taking notice of the great Spoil of Timber and Woods in the Kingdom, by converting

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the same into Coals for the making of Iron, which with the frequent Transportation of Iron and Iron Metal, was like to produce a great Scarcity of Timber-wood and Iron; for remedying the same, and for reformation of several Deceits and Abuses practis'd in the making of Iron, and in the Sale thereof in Bars, by mingling the worse sort with the better, did by his Letters Patent dated the 14th of October erect an Office, and appointed *John Cupper* and *Grimbald Pouncefoot* Surveyors of all Ironworks, Furnaces and Forges in *England* and *Wales*, and of all Woods to be us'd therein, and for the surveying and marking of Iron, for which they were to have a moderate Fee; and commanded, That no Woods should be converted into Coals for making of Iron, nor any Iron or Iron Metal transported or put to sale by any Iron-master, Owner or Farmer of Iron-works, or remov'd by any Merchant, Trader or Dealer in Iron from the Iron-works, Furnaces or Forges, before the Iron should be first survey'd and mark'd by the King's Officers; and the said Surveyors were authoriz'd to enter into the Ironworks, Ware-houses, &c. to mark the Iron, and into any Wood-grounds, where Wood should be felled for Coals for making Iron, to survey the same.

13 Car.  
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About the latter end of this year, *Charles Lodowick* Prince Elector and Palatine of the *Rhine* publish'd his Protestation against the Proceedings of the Emperor and the Duke of *Bavaria*, complaining, 1. That in the late pretended Treaty of Peace at *Praque* in his Minority, and without his being sent for or heard, the former Disposition of his Electoral Dignity, Rights and Possessions, made by the Emperor to a far distant Line and Descent, were confirm'd, in prejudice of himself, his Brethren and near Kindred, and against the Laws and Constitutions of the Empire, observ'd in Fiefs of such importance and quality, and against the Golden Bull. 2. That he was not with his Co-Electors call'd and invited to the last Meeting at *Ratisbon*, where *Ferdinand* King of *Hungary* was chosen and crown'd King of the *Romans*; but was excluded, and the Duke of *Bavaria* suffer'd to usurp his Title, Place, Session, Office and Voice.

The Pal-  
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*Ann. 1637.* Voice. He protests therefore against those Conclusions of a Peace at *Prague*, that Election of a King of the *Romans*, and the Usurpations of the Duke of *Bavaria*; and that he is clear and blameless of what shall befall any one by his endeavouring to obtain his Restitution. He protested, he intended not to derogate any thing from his Imperial Majesty, to whom, and the Princes Electors, he had sent authentick Copies hereof.

*Ann. 1638.* The great Case of Mr. Hamden about Ship-mony came now to be argu'd by the Judges: and one of each Court, viz. Mr. Justice Crook of the King's Bench, Mr. Justice Hutton of the Common Pleas, and Mr. Baron Denham of the Exchequer, gave their Opinions for Mr. Hamden; and the other nine *quod contra*. We have here subjoin'd the Substance of the Arguments of the first two, and that of the Lord Chief Justice Finch on the other side.

*Mr. Justice Crook's Argument.* Mr. Justice Crook argu'd the 14th of April to this effect: He recited the Writ dated 4 Aug. 11 Car. directed to the Sheriff of Bucks, viz. The King understanding that certain Pirates took the Ships and Goods of his Subjects and others upon the Sea, which was wont to be defended by the English Nation, and led the Men into Captivity; and considering the Preparations which were making to molest the Merchants and annoy the Kingdom, and the imminent Dangers in these times of War; and being willing to provide for the Defence of the Realm, the Safeguard of the Sea, and the Security of Ships and Merchandizes; and that the Charge of this Defence, wherein all are concern'd, may be born by all, he commands them upon their Allegiance, as they tender his Honor, and upon Forfeiture of all they can forfeit, to provide a Ship of 450 Tuns, with 180 Men, Guns, Weapons, Ammunition and Victuals, till the first of March then next following, and from thence for 26 Weeks, at their Costs and Charges in Victuals and Wages; to be at Portsmouth by the said first of March, to go with his and other Ships of his Subjects, for Defence of the Sea and of the Merchants: Im-

powering



powering the Sheriff to arrest all within his County *secundum statum & facultates*, to levy the same by Distress, and to imprison *Rebelles & Contrarios*, till the King's further Order: but not to levy more than will suffice, nor appropriate any of the Mony to other Uses; but if there be any Overplus, to restore it in proportion to the Persons who paid it. By virtue of this Writ Mr. Hamden is assess'd twenty Shillings for his Land in *Stoke Mandevil* in *Bucks*, which not being paid, is certified into Chancery by *Certiorari*, and a Schedule annex'd, both which together with the Writ of 4 Aug. are sent by *Mittimus* into the Exchequer, from whence a *Scire facias* issu'd for Mr. Hamden to shew cause why he should not be charg'd with this Mony: whereupon he appear'd, and after Oyer of the Writs and Schedule demurred. And whether upon this whole Record, Judgment ought to be given for or against Mr. Hamden is the question; and not whether it should be given for or against the King, for 'tis a judicial Process out of the Exchequer, and the King no Party to the Record. He said, it was a Case of the greatest weight that ever was argu'd there; for it concern'd the King in his Prerogative and Power Royal, and the Subjects in their Liberties, Persons and Estates; and he wish'd it might have been determin'd by his Majesty and the Great Council of the Realm. He was not so much mov'd by the Arguments at Bar, tho they had argued very elaborately on both sides, every Man there being apt to think the Law of his side, as he was: that his Brothers who had argued before him, had all argued one way; but being not satisfied with their Reasons, he must not run with a multitude against his own Conscience; and therefore declar'd his Opinion, That as this Case is, Judgment ought to be given for the Defendant Mr. Hamden. He said two Difficulties were to be remov'd in the first place: 1. That by the Demurrer the Danger of the Kingdom is confest, and the Case made a Case of Necessity. *Answ.* A Demurrer is no Confession of matters of fact, but where the matter precedent is sufficiently pleaded, as appears § *H. 7. fol. 1.* and *Cook lib. 5. fol.*

Ann. 1638.

69. *Burton's Case.* 2. That it was resolv'd by all their Opinions under their hands, that this Writ was legal. *Answ.* 'Tis true, he subscrib'd among the rest to that Opinion in *February 1636.* but he then dissented from it, and signify'd to the rest his Opinion to be, That such a Charge could not be laid but by Parliament; and another Judg that subscrib'd, declar'd himself of the same Opinion; and some others who subscrib'd, dissented from some other Particulars then subscrib'd to. But it being urg'd, that in References the greater Opinion ought to involve the rest, altho they differ'd from them, as it is in our Courts, where if three Judges agree, the other must submit; and it being affirm'd by more antient Judges than himself, that such had been the continual practice in Cases of References and Certificates, and that such a sudden Resolution did not bind, if upon Arguments on both sides it came judicially before them, he consented to subscribe. And when he objected, that by this means the King might be misinform'd, and conceive it their uniform Opinion, when some of them dissented; it was answer'd, the King should be inform'd of the Truth; and thereupon they that dissented, subscrib'd for Conformity only: That this being before any Arguments of either side or Precedents seen, he held himself not bound by it; and if he had been of the Opinion subscrib'd to, yet now having heard the Arguments and Reasons on both sides, and consider'd of the Records and Precedents, he is absolutely of opinion, that this Writ is illegal: and had he been of the Opinion subscrib'd to, yet he thinks it no shame to retract, rather than to argue against his Conscience. He then proceeded to give his Reasons why this Writ of *Aug. 4. 11 Car.* to find a Ship at the charge of the Inhabitants of *Bucks.* is illegal.

1. It is contrary to the Common Law: For (1.) This is the first Writ since the Conquest that went to any inland County to prepare a Ship with Men and Munition; and by *Littleton, fol. 23.* and *Co. Litt. fol. 81.* where there is no Precedent, it's a great Intendment the Law will not bear it. (2.) The Com-

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mon Law settles a Freedom in the Subjects Persons, and in their Goods and Estates; so that they cannot be taken from them or charg'd without their Consent, either actual or implicit, in Parliament; and in this respect the Law distinguishes between Bondmen and Freemen. *Co. Rep. lib. 8. fol. 22. Francis's Case: Quod nostrum est sine facto seu defectu nostro amitti seu in alienum transferri non potest.* Lambert fol. 24. By the Laws confirm'd by William the Conqueror, Freemen are to hold their Lands free *ab omni exactio- ne injusta, & ab omni Tallagio* (leaving out *injusta*) *prater servitium debitum.* 17 Jo. King John in *Mat- thew Paris*, fol. 246. granted, That *nullum Scutagium aut Auxilium* should be impos'd but by Parliament, unless to ransom the King's Person, knight his eldest Son, or marry his eldest Daughrer, which was but a Confirmation of their antient Liberties. By *Fortes- cue*, who had been Chief Justice, and was Chan- cellor of England in H. 6. time, in his Book *de Lau- dibus Legum Anglia*, cap. 9. fol. 25. cap. 13. fol. 31. cap. 36. fol. 84. The King of England rules by a Po- litical as well as Royal Power, and therefore cannot alter the Laws, or make new ones, or charge his Subjects with Tallages or Impositions without their Consent in Parliament, which he might do if his Power were Royal only. 13 H. 4. fol. 14. The King's Grant which tends to the charge and prejudice of the People in general is void, unless by Parlia- ment: But his Grants are good in the case of Fairs, Tolls, Pontage, Murage, &c. which are for the Profit or Ease of the People, and not compulsory, but to those that will take benefit of them, and so they are for small and reasonable Sums; for if they are for great Sums which tend to the Charge of the People, the Law judges them void. *Co. Rep. lib. 5. fol. 63. Case of the Chamberlain of London: An Or- dinance of the Common Council of London* (who by Custom may make reasonable Ordinances) for Cloths to be brought to *Blackwel-Hall*, there to be measur'd and search'd before sold, with a penny to be paid to the Officer, and a pecuniary Penalty for not performing the Ordinance was allow'd good. *Ibid.*



*Ann. 1638. fol. 64. Clark's Case:* An Ordinance made by the Assent of the Plaintiff himself and other Burgeses of *St. Albans*, for imposing a small Tax for the publick Good of the Town, adjudg'd to bind the Plaintiff. *Fitzherbert Natur. Brev. fol. 122. cited in Co. lib. 11. fo. 86. Darcy's Case:* The King's Grants have this condition in them, either tacit or exprefs, that the Country should not be burden'd by them more than was wont: nor can the King charge the People by Writ, any more than by Grant, unless where they have apparent Benefit by it, as by the Writ in the Register, *fo. 127. and Fitzherbert Nat. Brev. fo. 113.* where the King grants a Commission to inquire by whose default a Breach in the Sea-wall hath happen'd, and to cause all that will have benefit by the making it, or loss by an Inundation, to be contributory to the Charge: and this is done by a Jury; but particular Persons concern'd, not a County or Town, can be tax'd: and so it is at this day upon the Commission of Sewers, as appears by *Coke, lib. 10. fo. 142. Case of the Isle of Ely.* But in our Case there is a general Charge throughout the Kingdom, which the Law permits not without common Consent in Parliament. *Object.* This Charge is impos'd for the publick Safety and Defence, of which every one hath the advantage. *Answ.* When imminent Danger and cause of Defence is, every Man is bound (at the King's Command) to this Defence in his Person, and *exponere se & sua*: But to lay a general Charge upon the Kingdom, for making or preparing Ships, or for Mony in lieu thereof, cannot be done but by Parliament. *Mich. 14 E. 2. Rot. 60. B. R.* The Case was, The Scots having enter'd with an Army into the Bishoprick of *Durham*, the Commonalty of *Durham* (among whom was *W. Heybourne*) agreed to compound with them to depart, and swore to perform what Composition should be made; and 1600 Marks being the Sum, and to be paid immediately, they all consented that *W. Keylow* should go and search every man's House, and should take away what ready Mony he had to make up the Sum, and the Owners to be repaid by the Commonalty of *Durham*: and *Heybourne*

*bourne* for *Keylow's* breaking open his Chest, and taking thence 70 *l.* brought his Action against him in *Durham*, where the Jury finding the special matter, the Court gave Judgment for the Plaintiff *Heybourne*; but the Judgment was revers'd in the *King's Bench*, for that 1. *Heybourne* had his remedy against the Commonalty of *Durham*. 2. He had agreed to this Ordinance, and was sworn to perform it; so the Defendant did nothing but by the Plaintiff's Consent, and was therefore no Trespasser. By which it appears, that if the Plaintiff had not particularly consented, such an Ordinance could not have bound him, altho in a case of such great danger. 2 R. 2. Parliament-Roll *pars prima*, tho no Act of Parliament, yet sheweth what the Law was then conceiv'd to be: For *Scroope* Lord Chancellor shew'd to the Lords and Commons, that all the Lords and Sages had met together since the last Parliament, when the Kingdom was in imminent danger, and all agreed they could not lay a Charge upon the Commonalty, but it must be done in Parliament; whereupon the Lords lent Money to supply the present Necessity. He said, if this Writ should be allow'd, great Inconveniences would ensue. 1. No Man could know what his Charge might be; for he may be charg'd as often, and with as many Ships, and of what Burden, and with what Munition, Victuals and Men the King pleas'd; and tho this King would be moderate therein, yet Judges must look to future times. *Danegelt* was first appointed in time of necessity to redeem them from the Cruelty of the *Danes*: In 991 it began, and was 10000 *l.* in 994 it increas'd to 16000 *l.* in 1000 to 24000 *l.* in 1007 to 36000 *l.* in 1012 to 48000 *l.* and if this Writ be well awarded, the Bounds of it were at pleasure. There were never but one Subsidy and two Fifteens us'd to be granted in Parliament until 31 *Eliz.* and then a double Subsidy and four Fifteens were granted: but Sir *Walter Mildmay*, who mov'd it, said his Heart quaked for fear of what Inconvenience might happen thereon. Afterwards 35 *Eliz.* a treble Subsidy and six Fifteens were granted; and 43 *Eliz.* four

What *Danegelt* amounted to.

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Subsidies and eight Fifteens, and yet these were not accounted grievous, because in Parliament. Tunnage and Poundage was granted 13 R. 2. (and ever since continu'd by several Grants) that the King might have Mony in his purse for Extraordinaries, especially the Defence of the Realm and guarding of the Seas, as is declar'd by 1 Jac. and other Statutes. If objected, Tunnage and Poundage is not now granted to the King, who therefore is enforc'd to take other courses. *Ans. 1.* Tho not granted, yet it is taken. 2. Another Inconvenience is, 'tis in the Sheriff's power to charge any man's Estate at his pleasure, taxing some and sparing others, and by levying more than needs to enrich himself; which Power the Law never gave him. An Assessment for Breach of the Sea-walls must be made by a Jury and not by him.

2. If this Writ had been doubtful at the Common Law, yet it is illegal, because expressly contrary to several Statutes, prohibiting any general Charge to be laid without Consent in Parliament. *Stat. 25 E. 1.* The Aids, Taxes and Prizes which had been granted the King, should not be made a Precedent or Custom for the future. And *cap. 6.* He will not take such Aids, Taxes or Prizes, but by the common Assent of the Realm; and for the common Profit thereof; saving the antient Aids and Prizes due and accus-tom'd, which antient Aids were *ad redimendum Corpus, ad Filium primogenitum militem faciend. & ad Filiam primogenitam maritand.* and concern'd not the Subjects in general, but only particular Men by their Tenures; and the saving was needless, for the Body of the Act extended only to general Aids: However if this Salvo extended further, as hath been objected, yet the Statute *de Tallagio non concedendo, viz.* That no Tallage by the King or his Heirs be levied without the Assent of the Archbishops, Bishops, Earls, Barons, Knights, Burgesses and other free Commons of the Realm, is without any Salvo. Mr. Attorney said he would not deny it to be a Statute: but Mr. Solicitor labour'd much to prove it none; tho it was never doubted to be a Statute till this Argument; it being printed in the Book of Statutes as a Statute, recited



recited in the Petition of Right 3 Car. to be a Statute; and as for its not being found in the Rolls, no more are many others which are known Statutes, as *Magna Charta* for one: and he conceiv'd it was made 34 E. 1. and so it is set down in the great printed Book of Statutes, *Anno* 1618. and all the Judges have agreed it to be a Statute. The only doubt is, whether it extends to Aids for the Defence of the Kingdom; and he thought it did, for the words are express: and in foreign Parts this was taken for a Law in force in *England*, as appears by *Bodin* fo. 97. The next Statute is 14 E. 3. cap. 1. The King grants for him and his Heirs, that the great Subsidy formerly granted should not be had in example, nor the Subjects charg'd with any Aid, &c. but in Parliament: which was made against the sending of Ships at the charge of the Towns where they were, or sending Men out of their Counties at the County's charge. And whereas his Brothers *Weston* and *Berkley* held that this was but a temporary Statute, and ended when the Wars ended, for that it appoints the Profits of Wards, Marriages, &c. to be expended upon his Wars during their Continuance; he conceiv'd it perpetual, for that the King grants for him and his Heirs; and if *Heirs* had been omitted, yet the Name of the King in his politick Capacity had extended to them, as appears by Sir *Thomas Wroth's* Case, *Plow. Com.* fo. 457. He said, the Intendment of it was for the Subjects Security in future Ages, and the Judges ought to construe Statutes according to the Intent of the Makers, as *Co. Rep. lib. 3. fo. 7.* and *Plow. Com. Biston* and *Stud's* Case. 'Tis objected, that this was not recited in the Petition of Right as a continuing Statute. *Answ.* 'Tis comprehended within those words, *and other good Statutes*; and in the Statute-Book it is printed as a Statute continuing, and not noted as expir'd. *Parl. 22 E. 3. m. 16.* The Commons complain'd that the Collection of the Subsidy upon every Sack of Wool was continu'd longer than the Parliament had granted it, and the Parliament provided it should be continu'd no longer than *Easter*: Much less then would they have admitted of

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a Writ to charge it without any such Grant at all. 25 E. 3. m. 8. It was enacted, That no Man should be compel'd to find Men at Arms, except those who hold by such Services, or by common Assent in Parliament: much less is any bound, without such Assent, to be contributory towards a Ship with 180 Men at Arms, Victuals, and Soldiers Wages. Rot. Parl. 2 H. 4. n. 22. The Commons pray'd that the Commissions for the making of Barges and Barringers by divers Cities and Towns, without Assent in Parliament, might be repeal'd, and be of no force; which the King granted. This, he said, he took for an absolute Act of Parliament: and from that day, till the making of these Writs, in no age, no not in the time of Invasion, did ever any Writs issue to any Cities or Towns, for the preparing any Ships or Vessels at their own charges. And whereas his Brother Berkley said, that the Words which follow there (*viz.* That there being great necessity of such Vessels in time of War, the King would treat with his Lords about it, and then shew it to the Commons for their Advice) amount to a gentle Denial of that Act, like a *Roy se advisera* at this day: He answer'd, it is an absolute Assent to the Commons Petition, and so an absolute Act, and that which came after was but a plausible Excuse; for never any Writ or Commission for making such Vessels issued out since, nor any such Consultation appears ever to be made. 13 H. 4. n. 10. A Grant of a Subsidy of Wools, &c. and of Tunnage and Poundage for one year, for Defence of the Realm and Safeguard of the Sea, should not be taken in example to charge the Lords and Commons, unless by a new Grant in full Parliament. 13 H. 4. n. 33. A Petition was in Parliament, that an Office was granted of Aulnager in London with Fees thereunto, contrary to the Statute, That no Tallage or Aid should be granted or levied without Assent of the Lords and Commons, praying such Letters Patents should be void, and held for none, which was granted: So these Statutes against Tallages and Aids were then continuing. 1 R. 3. cap. 2. Enacted, That the Subjects should not be charg'd by any Imposition call'd

call'd a Benevolence, or by such like Charge, against their wills; which includes all Charges whatsoever, tho for Defence of the Realm, or guarding of the Seas. The last and concluding Statute is the Petition of Right 3 Car. reciting the Statute *de Tallagio non concedendo*, that of 25 E. 3. against Loans, and that against Benevolences: And then they pray, as their Rights and Liberties (among other things) that none be compel'd to make or yield any Gift, Loan, Benevolence, Tax or any such-like Charge, without an Act of Parliament: To which the King answer'd, Let Right be done, as is desir'd; which is a full and perfect Statute. And herein the Judges were consulted (whereof he was one) who resolv'd, that it gave no new Liberties, but declar'd what the Liberties of the Subject were. By reason of which Statutes, especially those of 25 E. 1. 34 E. 1. and 14 E. 3. being in the negative, he conceiv'd this Writ, that lays such a Charge, and the Assessment thereupon, are both illegal.

*Object.* It hath been said, That the Parliament is a slow Body, and the Kingdom might be lost while they are consulting; That the Danger by the first Writ 4 Aug. appears to be great, and the *Mittimus* mentions that *Salus Regni periclitabatur*: That we are bound to believe all this to be true, for the King's Certificate is *Recordum superlativum*; and if a false Suggestion, it must lie upon the King's Conscience: That the Defendant by his Demurrer hath confess'd all these Suggestions to be true, and the Kingdom to be in great danger; so no staying for a Parliament: and if they met, it may be they would not yield such Writs should go forth, tho the Kingdom in never so great danger: That this Charge for making defence is not within the Intent of those Statutes; and if it had been exprels'd in a Statute, that such a Charge should not have been impos'd, the Statute had been void, for the Kingdom must be defended. To this he answer'd, 1. The Question is upon the first Writ of 4 Aug. whether that be legal; for the Writ of *Mittimus*, *quod salus Regni periclitabatur*, issued a year and half after, nor could that notify to the Sheriff



*Ann. 1638.* Sheriff and Inhabitants what danger the Kingdom was in, but was only a Notification to the Barons of the Exchequer. 2. The Suggestion of the Danger is not absolute, but with a *datum est nobis intelligi*. 3. We are not bound to believe Suggestions in Writs and Patents, which are many times untrue; and yet it lies not upon the King's Conscience, for the King is abus'd by them that thrust such Suggestions into a Writ or Patent; and therefore Patents grounded upon untrue Suggestions are void. 4. If the thing be illegal, the Demurrer is well offer'd, and confesseth nothing. 5. The Danger is either near, and then the King may command Mens persons, and the present Ships of the Kingdom, but he cannot command Mony out of Mens purses by Distress or Imprisonment; or the Danger is further off (as it seems to be here) and then there is time enough to call a Parliament, as well as to make or prepare Ships at the Counties charge: And a Parliament by *Alfred's Laws, Coke lib. 9. Epist.* was to be held twice a year or oftner; and by the Statutes 4 E. 3. cap. 14. and 36 E. 3. cap. 10. once a year or oftner: so that Provision might have been made by Parliament within the seven months between the Teste and the Time prefix'd for the Ships to be sent. 6. 'Tis not to be presum'd, that a Parliament would deny to do what is fit for the Defence of the Kingdom; but he believes they would never have consented to such a Writ as this, that had not been awarded since the Conquest, nor left it to the Sheriff to tax Men when and how he pleas'd. 7. 'Tis true a Statute that the King should not defend the Kingdom, would be void; but a Statute that Mony should not be levied, nor Men compell'd to make or prepare Ships at their own charges without Consent of Parliament, he conceiv'd good: and the King being a just and pious King would not suffer such a Charge, if he were truly inform'd that it is against the Laws of his Kingdom, but would say as in the Stat. 25 E. 3. *de Provisoriis*, That he was bound by his Oath to see the Laws perform'd: or as Queen Elizabeth did; for a Charge for the Wars in Ireland being impos'd on some particular Men, and

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a Judg being convented before the Council for refusing to pay it, because illegal, which he was bound by his Oath to signify; the Queen was very angry such an Imposition had been made, and caus'd a stop to be put to it. And in this case the fault is not in the King, but in those who devis'd this Writ, and in his Judges who have affirm'd it to be lawful.

3. This Writ is not to be maintain'd by any Prerogative or Power Royal, or Allegation of Necessity: For it being against the Common and so many Statute Laws, and done to the wrong of the Subjects, there can be no such Prerogative, nor can it be said to be done by the King, whose Throne is establish'd by Justice. *Bracton lib. 3. fo. 107. Nihil aliud potest Rex quam de jure potest. Co. Rep. lib. 11. Case of Magdalen-College: A long Lease contrary to the Stat. 13 Eliz. taken by Queen Elizabeth of a College, could not be maintain'd by her Prerogative, but she was bound by the Statute. Plow. Com. fo. 246, 247. Lord Berkley's Case. Ibid. fo. 487. Nichol's Case: The King's Prerogative cannot do wrong. 21 E. 3. fo. 47. Earl of Kent's Case. Co. Rep. lib. 11. fo. 86. Darcy's Case: The King cannot make any Grant to the hurt of any other. Doctor and Student, fol. 8. A man's Goods cannot be taken from him without his Consent; and if they be, the Party shall not only pay Damages to the Person injur'd, but a Fine to the King, and be imprison'd. If then the King is to punish the taking away another man's Goods, he will not do the same thing himself by his Prerogative. Royal Power is to be us'd only in cases of Necessity and imminent Danger, as in Rebellion, sudden Invasion, and in some cases where Martial Law may be us'd, but not in a time of Peace. By the Statute 31 H. 8. cap. 8. (which was made when Rebellions began to be stir'd) reciting that for want of a Statute the King was forc'd to use his Royal Power, it was enacted, That the King by the Advice of his Council and others, might by Proclamation make Ordinances for punishment of Offences, and lay Penalties, but no man's Life, Lands or Goods should be impeach'd thereby.*

Ann. 1638. thereby. Here was Regal Power fortify'd by a Statute ; yet thought inconvenient, and repeal'd by a Statute 1 E. 6. *Bracton lib. 2. cap. 24. fol. 55.* cited in *Co. Rep. lib. 7. fol. 11.* *Calvin's Case: Regis Corona est facere justitiam & judicium.* *Co. Rep. lib. 7. fol. 5.* *Calvin's Case*, cited out of *Fortescue: Rex ad tutelam Legis, corporum & bonorum, erectus est* ; and therefore cannot charge his Subjects or take away their Goods by any Power Royal. Nor can there be any Necessity or Danger conceiv'd, that may occasion such Writs ; for in time of danger the King hath power to command all Persons to attend with Arms at the Seacoasts or other parts of the Kingdom, and to arrest all Ships to go with his Navy for the defence thereof ; which was always taken to be sufficient, when the Navy of England was not so strong as now. 23 E. 1. m. 4. The French King purpos'd to invade the Kingdom, & *linguam Anglicanam delere* ; and thereupon the King commanded all his Ships and Men with Arms to be in a readiness. *Scot. 10 E. 3. m. 16.* Upon notice of another Invasion intended, command was, that divers Ships should be in a readiness with thole from the Ports of Ireland to defend the Kingdom. *Ibid. m. 22.* *Southwales* was commanded to have one Ship in readiness against an intended Invasion. *Alman. 12 E. m. 10.* A Writ to the Mayor of London, upon notice of a French Invasion, to shut up the City towards the Water, and to have their Men in Arms, to defend, &c. *Ibid. m. 13.* A Writ to *Great Yarmouth* upon the same occasion to prepare four Ships with 240 Men : The like to other maritime Towns. *Franc. 26 E. 3. m. 5.* A Writ to the Earl of *Huntingdon* and others, to array Men with Arms, and guard the Coasts of *Kent* against the French. 5 H. 4. m. 28. A Commission to *Thomas Morley* and others to array Men against the French and Scots. 4 H. 8. pars 2. A Proclamation into *Kent*, for the Lord *Abergavenny* and others to array Men there against a French Invasion. Anno 1588. This course of preparing Ships by every County was not taken, tho that Invasion was long foreseen.



4. If it it were legal to lay such a Charge upon maritime Parts, yet to charge any inland County with making of Ships, or furnishing them with Mariners and Soldiers at their charges, is illegal, not warranted by any Precedent, and impossible to be done without help from other Counties, and so a void Command. 40 E. 3. fol. 6. A Covenant to do a thing impossible, is void. 2 E. 4. fol. 2. A Feoffment to be void, if the Feoffee do not an impossible thing; the Feoffment is good, and the Condition void. 17 E. 4. fol. 5. If an Arbitrator award one of the Parties to enter into Bond with *A.* as his Surety to pay Money, the Award is void as to the finding of a Surety: so this Writ commands the Sheriff and Inhabitants of an inland County to find a Ship with Masters and Mariners, whereas there is no Shipwright there, nor Masters and Mariners; but they are Husbandmen, who most of them never saw a Ship, nor know what belongs to one, nor are they bound to seek out of their County for them that do. And when such Writs have been directed to inland Towns, upon misinformation that they were maritime, they have been discharg'd; and so was *Bodmin* in *Cornwall*, as appears 13 E. 3. pars 2. m. 14. much more if directed to an inland County. It hath been objected, that *Bodmin* was discharg'd, because the Admiral had of his own authority charg'd it, the Sea-Towns only being within his Commission: but it is the same thing if it had been laid upon the Town by Writ. For the same year, 13 E. 1. pars 1. m. 14. *Chicester*, to whom a Writ was directed to find a Ship with Mariners and Men at Arms, and which is but a few miles from the Sea, was discharg'd upon their Allegation, that never any Ships arriv'd there, nor had they any Mariners dwelling there; which was found to be true: Whereby it appears, that an inland County, much remoter from the Sea, ought not to be charg'd.

5. The fifth and great Point is a multitude of Records and Precedents, produc'd to prove, that the King by this Writ hath done but *more Majorum*, as his Progenitors had done. He said, he was very doubtful

Ann. 1638. doubtful when he heard those Records cited, and so press'd by Mr. Attorney and Solicitor, and rely'd on by his Brothers *Weston* and *Berkley* for the reasons of their Judgments; until he had perus'd those Records himself, and found not one of those shew'd to him to prove this Writ to be usual. And if there were such Precedents, they were not material: For the Question is not what hath been *de facto*, but what may be *de jure*; as is said in *Co. lib. 4. fol. 33. Mitton's Case*; *Judicandum est Legibus, non Exemplis*: And *lib. 11. fo. 75. Magdalen-College Case*; *Multitudo errantium non parit errori Patrocinium*: And *l. 4. fo. 94. Slade's Case*; Precedents are not to be regarded, unless confirm'd by judicial Records, which none of those ever were, but complain'd of. He said, he had read all the Records sent him on the King's part, and not one of them maintains this Case; nor is there any Writ to any Sheriff to command the making of Ships at the charge of the County, but this is the first Writ of that kind since the Conquest. It's true, before 25 *E. 1.* there were some Writs to maritime Towns, and other Towns, as *London*, &c. where they had Ships and Mariners, to provide and prepare Ships, and to send them where there was fear of danger; which was commonly at the King's charge, but sometimes upon necessity at the charge of Towns and Parts adjoining; which he thinks was the true Cause of the Complaint in Parliament 25 *E. 1.* For there is no such Writ afterwards till *E. 3's* time; and then during the Wars between him and *France*, Anno 10, 11, 12, 13. were the most Writs awarded to the maritime Towns to send Ships at their charge: which he conceives was the principal cause of making the Statute of 14 *E. 3. cap. 1.* no such Writs being awarded afterwards till 1 *R. 2. m. 18.* when Writs were sent to many maritime and inland Towns for making of Ships, which was much insisted on by Mr. Attorney and his Brothers *Weston* and *Berkley*, to prove this Course was practis'd after the Statute of 14 *E. 3.* But those Writs were grounded on an Ordinance in Parliament, 1 *R. 2. m. 52.* That all antient Cities, Boroughs and Towns that would have

have their Liberties confirm'd, should make a Ship of War : and so voluntary, and not compulsory to any. And when, 1 H. 4. Commissions were awarded for making such Vessels for War, but without any such Ordinance, it was complain'd of in Parliament, 2 H. 4. m. 22. and the Commissions were repeal'd : And since that time no such Writs have issued forth to any maritime Town, till these late Writs. He then made a brief Recapitulation of all the Records that had been sent him, and concluded, that there was none to prove the sending of any Writ to inland or maritime Counties to prepare Ships; nor after the Statute of 14 E. 3. to maritime Towns to find Ships at their charges; and that therefore this Writ is not warranted by any former Precedents.

He then examin'd this particular Writ, and said it was illegal in the several parts of it. 1. The Motives of this Writ; *quia datum est nobis intelligi*, was no certain Information; nor are Pirates infesting the Merchants and others, nor that which follows, sufficient Motives to have a Royal Navy; nor were such Motives ever put into any Writ before, but usually some great Prince nam'd, who was preparing to invade the Realm : For Pirates come but by stealth, and then escape by their Lightness; and the usual course hath been for the Admiral to send some few Ships to scour the Coasts : and so William Leybourn the Admiral did, as appears by the Record 25 E. 1. m. 9. Nor is there any fear of losing the Dominion of the Seas by Pirates. 2. The Command to prepare a Ship at the charge of the Inhabitants with Munition and Men, is against the Common and Statute Laws; and impossible, for the Reasons aforesaid. 3. And so is the Command to find Wages for the Soldiers for 26 weeks after they come to Portsmouth, when out of their Counties, and in the King's Service, and is against the course of former Precedents. 15 Jo. In the Writ of Summons of the Tenants by Knights Service, after the forty days wherein they were bound to serve, they were to be satisfy'd *ad denarios Regis*. Pasch. 26 E. 1. The *Cheshire* Footmen would not stir out of their County without their Wages,



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Wages, and Mony was sent them. *Mich. 26 E. 1. Excheq. inter Brevia irretornab.* Thousands of Soldiers were sent against the Scots *ad vadia Regis*, and Mony sent down to pay them. *30 E. 1.* The Wages of Land-Soldiers and Mariners *per diem* were set down in the Exchequer. *Trin. 31 E. 1. inter Brevia* there, Wages were sent to the Men of *Cumberland* and *Westmorland*, before they would stir out of their Counties. *19 E. 2.* Commissions went out to pay the Soldiers. *Hil. 2 E. 3. Rot. 16.* Bonds given the King's Officers by Soldiers for Monies receiv'd for Wages, deliver'd up. Statute of *18 E. 3. cap. 7.* enacted, That Soldiers should be at the King's Wages from the time they went out of their Counties. By the Statutes of *19 H. 7. cap. 1.* and *11 H. 7. cap. 1.* they that had Grants of Lands or Offices from the King, were to serve in his Wars, but were to have Wages. *Stat. 2 & 3 E. 6. cap. 2.* The Captains of Soldiers by Sea or Land, should not receive Wages for more Soldiers than serv'd, nor for longer time. All which proves that the Soldiers should be at the King's Wages, and the Command to find Soldiers Wages for 26 weeks illegal. 4. It gives the Sheriff power to assess Men at his discretion, which is not warranted by the Precedents; for it us'd to be done by Commissioners. 5. The Power to the Sheriffs, and Mayors of Towns, &c. to imprison for the mony assess'd, is illegal, and against the Statutes of *Magna Charta, cap. 29. 5 E. 3. cap. 9.* and *37 E. 3. cap. 18.* And by colour of this Writ, any Peer may be arrested and imprison'd by the Sheriff: For tho Peers cannot be arrested upon ordinary Processes between Party and Party, as resolv'd in the Counters of *Rutland's Case, Co. lib. 6. fol. 32.* yet for a Contempt to the King they may, as resolv'd in the Starchamber in the Earl of *Lincoln's Case*: but yet by *2 E. 3. fol. 2.* a Writ to imprison a Man before he be indicted, is illegal. 6. The Practice is contrary to the Writ; for no more is to be gather'd than is sufficient, and none of the Mony imploy'd to other uses; and if more than sufficient be collected, it should be paid back after a ratable Proportion: but

this, as the course is taken, is not to be perform'd ; For no Ship, Tackling, Munition, Men, Wages or Victuals being provided, it is not to be known whether more or less is gather'd than sufficient. 7. If this Writ were legal, yet the Assessment by the Sheriff, as 'tis certified, is not warranted by the Writ: For it is not certify'd, that any Ship with Munition and Men, and Wages for Men and Victuals were prepar'd, and yet this is a year after the time it should have been sent to *Portsmouth*; and if not prepar'd, no cause to charge the Defendant. If a Man be charg'd with Mony for a thing to be done in a certain time, if the thing be not done in that time, he is not bound to pay the Mony afterwards; for it is in nature of a Condition precedent. To have a Duty after the Condition perform'd, there he that will have the Duty, must shew the Performance of the Condition, as in *15 H. 7. 1.* and *Coke lib. 7. fol. 9. Ughtred's Case*: And if the Ship were not prepar'd within the time, every one that paid may demand their Mony again of the Sheriff or Collector; for they have an interest in the Mony, which cannot be dispos'd of to any other use, no not by Command under the Great Seal, *Coke lib. 7. fol. 27.* A Penalty upon a Statute, if given to the Poor of the Parish, the King cannot dispense with it; but if given part to the King and part to the Poor, he may dispense with his part, but not the Poor's. *Object.* The Country knows not how to provide these things, and so pay their Mony by way of Accommodation. *Answ.* They must do it at their peril if the Writ be legal, and then (as his Brothers *Weston* and *Berkley* agreed) when the Service is done, they shall have the benefit of the Ship and Munition, and the Ship with some easy Charge may serve again, and they may have an account of their Mony, and the Surplusage (if any) restor'd. *Hil. 16 E. 3. Rot. 23. B. R.* a Soldier was indicted for receiving three pounds of the Hundred for his Armour, and not going into the Service; and being found guilty, was committed, find to the King, and found Sureties to repay the Mony to the Hundred. *Hil. 20 E. 3. Rot. 57. B. R.* Two High Constables being indicted, and found

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guilty of retaining 38 s. 6 d. part of six Marks they had receiv'd for setting forth Soldiers, were fin'd, imprison'd, and found Sureties to refund the Mony; and those who receive Mony of the Country to prepare Ships, and misimploy it, are answerable in the like manner. 8. The *Certiorari* being directed to him that was Sheriff at the time of the Assessment, not to the Sheriff at the time of the *Certiorari* awarded (as it ought to have been) is illegally issu'd, and so is the *Scire facias* which is grounded thereupon: nor doth the *Scire facias* mention to whom the Defendant Mr. Hamden should pay the twenty Shillings, which is uncertain.

He concluded, that no Judgment could be given to charge the Defendant.

Mr. Justice  
Hutton's  
Argument.

The 28th of April Mr. Justice Hutton thus argu'd: His Recital of the first Writ of 4 Aug. 11 Car. *Certiorari*, *Mittimus*, and *Scire facias*, was much to the same effect with that of Mr. Justice Crook. He said, the sole question was, Whether this *Scire facias* doth lie or not? and his Opinion was, that it doth not lie, but that Judgment ought to be given for the Defendant: and he divided his Argument into six several parts. He said,

1. He would prove by several Acts of Parliament, by some Authorities, and by some Reasons, that the King cannot at this day impose any such Charge in general upon all his Subjects, without their Consent in Parliament: But such Power in the King only is taken away, bounded and limited by divers Acts of Parliament. First by *Magna Charta*, cap. 29. That no Freeman should be imprison'd, disseiz'd of his Freehold, Liberties or Free Customs, &c. but by Judgment of his Peers, or the Law of the Land. And in the last Chapter of *Magna Charta*, the King grants, that he and his Heirs would keep the said Statute. Nor was this Grant for nought; for the Clergy and Commonalty gave him for these Liberties the Fifteenth part *omnium mobilium*, as appears there; and if any thing should be done to the infringing of these Liberties, the same should be void. By the Statute 25 E. 1. cap. 1. these Liberties and this Charter were



were confirm'd. And as to what his Brother Berkley 14 Car. said, That the words of *Magna Charta* were, *Habeant Libertates suas*, but no particular Liberties mention'd; the Answer is easy: for it's said in the first Chapter, *Habeant Libertates subscriptas*; and it cannot be deny'd, but that the Writ of 4 Aug. giving power to distrain and imprison during the King's pleasure, are against the express Words of this Statute. *Stamford, Pleas of the Crown*, saith, the great Privilege of the Trial of the Peers for Treason or Felony is grounded upon those words in that Statute, *per legale iudicium Parium suorum*. By the Statutes of 25 E. 1. cap. 5. & 6. and 14 E. 3. cap. 1. no Aids or Taxes formerly given should be brought into example, nor any such taken but by common Consent in Parliament: And by the Statute of 34 E. 1. cap. 1. no Tallage or Aid should be taken or levied by the King or his Heirs, without the Assent of the Archbishops, &c. Knights, Burgeses, &c. Statute 25 E. 3. cap. 8. No man shall be compel'd to find Men of Arms, &c. unless such as hold by such Services, or by common Consent in Parliament, *for that is against the common Right of the Realm*; which last Words are in the Roll, but omitted out of the printed Statute-Book: and this Act was confirm'd by the Statute of 4 H. 4. cap. 13. Then the Statute 1 R. 3. cap. 2. enacts, That the Subjects should not be charg'd with any Imposition call'd a *Benevolence*, nor by any other such Charge. Then comes the Petition of Right 3 Car. which recites the Statute of E. 1. *de Tallagio non concedendo*, and several Incroachments upon the Subjects Liberties; and prays, that no Man be compel'd to make any Gift, Loan, Benevolence, Tax, or such-like Charge, but by common Consent in Parliament: whereunto his Majesty subscrib'd, *Soit Droit fait come est desire*. For Authorities, he cited 13 H. 4. fol. 14, 15, 16. That the King cannot erect a new Office to charge the People without common Assent, nor grant that a Sum of Money shall be taken for every Carriage that comes over such a Bridg; nor can a common Charge, tho it redound to the profit of the People, be granted without Act of Parliament.

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37 H. 8. *Brook Patents Placit.* 100. The King may erect Markets and Fairs, with Tolls incident, for that concerns only such as will buy or sell; but he cannot grant a thorow Toll, nor alter the Laws, or make Land devisable, or Gavel-Kind, or Borough *English*, or make those descendible to the Heir at Common Law: and he cited *Fortescue de Landibus Anglie*, to the same purpose with Mr. Justice Crook.

38. He answer'd some Objections. *Object.* 1. It was insisted on by Mr. Solicitor, That the Statute *de Tallagio non concedendo* was not really a Statute. *Answ.* It hath been agreed by all that have argu'd since, to be an Act of Parliament, and is recited as such in the Petition of Right: and by Mr. Solicitor's insisting so much upon it, he conceiv'd he understood that Statute to be (as indeed it is) directly contrary to this Imposition by Writ, without Consent in Parliament. *Object.*

2. That the words Aid, Tax and Tallages, do not extend to this Provision of Ships of War and Men for Defence; nor is there any Exception in that Statute of the Aids for making the King's eldest Son a Knight, marrying his eldest Daughter, or other Aids by Tenures. *Answ.* Those Exceptions were needless, as well in that Statute, as in the Statute of 14 E. 3. which mentions all Aids and Charges in general; for those Statutes extend only to such Aids and Charges which concern all the Subjects in general, and not to particular Tenures: and therefore there was no occasion in the Statute of 25 E. 3. cap. 8. to except those who hold by such particular Tenures. *Object.*

3. The Statute of 14 E. 3. was but temporary, during the Continuance of those Wars; and his Brother Berkley excepted to that Statute, because not mention'd in the Petition of Right. *Answ.* Nothing can be more absolute, than that Statute against all Aids and Charges for the future without Consent in Parliament; and it was only the King's Concession how Wards, Marriages, &c. should be apply'd, that was to continue no longer than the Wars: and many other Statutes of the same nature with that were not particularly nam'd in the Petition of Right. *Object.*

4. which is the greatest that has been made and insisted

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sisted on by his Brothers *Crawley* and *Berkley*, and by others, That this is a Prerogative or Power Royal *proprium quarto modo*, and so incident to his Majesty, that it cannot be taken away by Act of Parliament: and when in King *James's* Reign there was a Proposal to take away all Tenures, and shut up the Court of Wards, the Judges resolv'd that it could not be done, but such a Statute would be void. *Ausw.* It's true, there are some things inseparable from the Crown, which the Parliament cannot take away, as appears by the Case *1 H. 7. viz.* disposing of the Right to the Kingdom, making War and Leagues, Power of the Coin, and other Monarchical Prerogatives, which to take away, were against natural Reason; and yet Acts of Parliament have bounded, limited and qualified the King's antient and inherent Prerogatives of as great importance. *Plow. Com. fol. 332.* Case of Mines; before the Statute of *2 E. 3. cap. 12.* if a Tenant by Knights Service had alien'd his Land without the King's Licence, the Land was forfeit; but by that Statute the Forfeiture was taken away, and a Fine only to be paid. *Ibid. fol. 522.* The King by his Prerogative might have taken Wood in any man's Ground for repair of his Castles; but is restrain'd by *Magna Charta, cap. 21.* By the Statute of *25 E. 3. cap. 1.* enacted, That the King or his Heirs shall not make Title to a Benefice, by any Avoidance in the time of his Predecessors; which Statute was pleaded to a *Quare impedit* brought by the King, wherein he made Title by an Avoidance in the time of *E. 1.* and *11 H. 4. fol. 7, 8.* the Plea adjudg'd good, tho' the Statute had not been put in use: So that the King's antient Prerogative of *nullum tempus occurrit Regi* was taken away by an Act of Parliament, and the same Prerogative of *nullum tempus* is taken away by the Statute of *7 H. 8. cap. 3.* where the Informer is limited to a year, and the King to two years to begin his Suit. By the Statute of *21 Jac. cap. 2.* the King's Title is bar'd to Lands, whereof he hath not been in possession, or which have not been put in charge within sixty years: And *cap. 12.* the King remits a part of his antient Regal Power, and grants that in Informations of Intrusion, the Subject shall



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not be inforc'd to plead specially, and shew his Title, in case the King hath been out of possession for twenty years; but may plead the general Issue, and shall retain the Possession, till the Title be try'd and found for the King. He said, Parliaments were formerly esteem'd so necessary, that by the Statute of 36 E. 3. cap. 10. it was enacted, That for the Redress of Grievances a Parliament should be held every year: They have been esteem'd necessary too for determining of difficult matters, as appears by *Bracton*, fol. 1. and 2 E. 3. fol. 7. upon the Statute of *Winchester*, where a Recovery being had against the Hundred upon a Robbery, and a Levy made of the Bishop of *Coventry's* Tenements, the Bishop pleaded a Charter of Exemption made by R. 1. and for the difficulty upon the Charters and the Words of the Statute, the Record was by Writ remov'd into the Parliament. So in the Register, fo. 274. a Messenger from the Pope being imprison'd for a Contempt in serving Process upon an Officer of the Court of Chancery, he was deliver'd out of prison upon giving Bond to answer the Contempt *ad proximum Parliamentum*. By the Statute of *Winchester* 2. cap. 28. the Clerks were to agree about a new Writ, or to attend the next Parliament. *Co. Litil.* fo. 100. Before the Conquest till the end of H. 3. there were 280 Sessions of Parliament, and since almost 200. and the King by his Coronation-Oath is bound to such Laws as shall be propounded for the Good of the Kingdom; for which reason the King never gives a Denial to any Bill, but *se Roy adviser*. But he said things had been so carried at the last Meeting in Parliament, that it had wrought a dislike of this course of Parliaments.

5. As to the Precedents insisted on, to prove that the Kings of this Realm had laid such Impositions even in the matter of Shipping; he said, *Danegelt* began in King *Ethelred's* time, *ad placandos Danos vel ad coercendum Danos*, and had continuance in H. 1's time, but was releas'd by the Statute of 34 E. 1. *De Tallagio non concedendo*: And it's having never been put in use since, is a strong Argument that it was taken away then; for no man will maintain, that the

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the King can at this day impose it by Writ under the Great Seal. By the Statute of 34 E. 1. cap. 8. the Laws and Liberties of the Subject were confirm'd, and all Statutes and Customs brought in by him or his Ancestors to the contrary declar'd void. He said, he was sorry that such obsolete and antient things as had been cited of either side for Precedents out of Membranas, Patents, Commissions and Answers to Petitions, had been mention'd in these times, being more fit to have slept in silence. And Parl. 2 H. 4. n. 22. such Commissions for making of Barges and Ballingers were at the prayer of the Commons repeal'd for ever; but they being Vessels of great necessity for the Wars, the King would confer with the Lords, and then shew it to the Commons for their Consent. He said, his Brother Crook had fully answer'd those Precedents, and some other Objections.

4. Since the time of R. 2. and H. 4. there hath been no such thing attempted, and the Disuse proves it illegal: for the Course and Order of Defence of the Sea and Land hath been since by other ways, as by Commissions to provide Men to serve for Wages, and by Indentures of Covenants between the Captain and the King to serve with so many Men for such and such Wages, which is the modern way. 15 E. 4. By Indenture Sir William Pirton covenanted to have 460 Men under him for four months, towards keeping the narrow Seas, and the King was to find the Ships furnish'd with Guns, Powder, Artillery and Victuals, and Pirton should have two Shillings a week Wages for every man. And 28 H. 8. those who were marching from Lancashire towards Lincolnshire to suppress a Rebellion, being countermanded on the way (the Rebels having submitted) a Bill for the Charges of their Entertainment and the conveying of them was sent to the King, and Satisfaction promis'd. It hath been insisted on, That there have been Commissions of Array, and Provision for Arms and Armor, which cannot be deny'd, it being so appointed by the Statute of Winchester and other Statutes: And it is true, what hath been urg'd, That the King hath

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hath interest in mens Goods, and may by his Sheriffs execute his Writs upon mens Persons and Lands, levy Amerciaments and Fines, and put some out of possession, and deliver it to others, as in *Plowden*, *Mansel's Case*: for the King is bound to do all this for the good of his Subjects. 34 H. 6. fo. 14. The King is bound to keep his Court of Chancery and all his other Courts at his own charge. 39 H. 6. fol. 40. He is bound to do right to all his Subjects, which without these Prerogatives he could not do: But out of all this, and Pontage and Murage, no sound Argument can be drawn, to warrant this Provision of Ships, Men and Furniture for War, when the King will so appoint. He confess'd, Some of our Kings had taken upon them a Royal and Monarchical Power to levy Mony of their Subjects. 17 H. 8. Cardinal *Wolsey* was charg'd to have caus'd Commissions to be directed into all Counties for levying the sixth part of all mens Plate and other Goods, for carrying on a War against *France*: but being generally dislike'd, the King and his Council and Judges disclaim'd it, and the Commissions were recall'd. In the latter time of Queen *Eliz.* on pretence of Expeditions in *Ireland*, a general Benevolence was requir'd, which went on for a time, and being levy'd in the Inns of Court, he paid 20 s. towards it: But the Queen being inform'd that it was expressly against the Statute of R. 3. the Monies collected were order'd to be restor'd, and he had his 20 s. again. He mention'd the Commission of 13 Octob. 2 Car. for the Loan of five Subsidies, which was effected, but afterwards acknowledg'd not to be warranted by Law. Nor can any such Precedents or Attempts take away the Force of so many Statutes, That the Subjects shall not be charg'd with any general Aid or Tallage, but by their Consent in Parliament.

5. The Writ of 4 Aug. 11 Car. doth not contain sufficient matter to warrant this Levy: The words, *quia datum est nobis intelligi*, are no direct Affirmation, but words of Suggestion only, and not *ex certa scientia*; nor do the Pirates robbing our Merchants, and taking some Prisoners, import any danger of their

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their coming on Land, or any other publick Danger, nor require any more than the ordinary Defence, which the King is bound to see perform'd, for the ordinary Benefits he hath by Customs, Subsidies of Wines, and other Profits, besides Tunnage and Poundage; and the Cinque-Ports might have set forth the Ships they are to provide. He said, that it being perceiv'd that the matter in this Writ was not sufficient, it was endeavour'd to be supply'd in the *Mittimus* with *Salus regni periclitabatur*, which is affirm'd positively, and not with a *datum est nobis intelligi*. And whereas his Brother Berkley held, that the Defect of the first Writ, if any, was sufficiently supply'd by the *Mittimus* (tho almost two years afterwards) and vouch'd *Co. 9 Rep. Dowman's Case*, That an Indenture subsequent to a Fine or Recovery, is as sufficient to lead the Uses thereof, as if the Uses had been declar'd before it was levy'd or suffer'd. He agreed that to be Law, but said it did not resemble this Case; for here the Foundation fails, and *quod in initio non valet, tractu temporis non convalescit*: nor can it be made good by any subsequent Declaration. *Co. 4 Rep. Vernon's Case*: A Man makes a Feoffment to the use of himself for Life, then to a Friend for his Life, and then to the Wife of the Feoffor for her Jointure; this can never be a good Jointure within the Statute, altho the Friend die in the life-time of the Feoffor, for it was not good in the Foundation. *Co. Rep. lib. 5. fol. 68. Lord Cheney's Case*; No Averment or subsequent proof of Intention can be added to the written original Will: So the Writ of 4 *Aug.* being the Original, cannot be supply'd by a subsequent Explanation in the *Mittimus*. Another Exception to the Writ is, That thereby the Sheriff must tax himself, which could not be done. He said, such a *Certiorari* as this was never before heard of, for two several Persons, who were then no Sheriffs, to certify what Taxations they had made when they were Sheriffs: for it should have come by Inquisition, or by the Return of the present Sheriff. Touching the *Scire facias*, he conceiv'd it did not lie: For 1. The Sum assess'd doth not appertain

*Ann. 1638.* tain to the King. 2. It is not shew'd, that any Ship, Men or Munition were provided. 3. No other Course is appointed by the Writ, but Distress or Imprisonment. 4. The *Scire facias* ought not to have been awarded, but upon a Presentment or Inquisition; as for the repair of a Bridg, High-way, &c. 2 E. 3. fol. 1. The King by his Writ to the Sheriffs of *Lancaster*, reciting, that divers Sums were deliver'd to one *Robert*, to aid the King in his Wars in *Scotland*, who came not, but had rob'd and spoil'd his Subjects to the value of 2000 l. *ut accepimus*, commanded the Sheriff to attach him; and *Robert* by his Counsel alledg'd, That the King not being appriz'd thereof by Indictment or otherwise, this Suit did not lie for the King upon this Suggestion, and the Parties griev'd may have their Suits: And because the Writ was grounded upon a Suggestion against the Common Law, he was discharg'd.

6. Mr. Solicitor having objected, that the Judges had before given their Opinions to warrant the Legality of this Charge, and subscrib'd their Names: To that he answer'd, his Argument now doth not contradict his Subscription then; for the question was put, What the King might do, when the whole Kingdom was in danger? which doth not appear in this case, where there were only some Pirates and Robbers who took the Goods of the Merchants: But if there were an intended Invasion, and the Kingdom in imminent danger, there might be just Cause for that time only to make a Preparation of Ships; but here is not one Ship provided or prepar'd by the Sheriff. The King is Lord and Owner of the Sea, and may lay an Imposition upon foreign Commodities to be brought into the Realm, for the Ports are his; and he may restrain going beyond Sea, and may appoint into what Countries the Merchants might trade, and into what not, as was adjudg'd in *Bates's Case* 4 Jac. and for this the King is to maintain the Ports, and to clear the narrow Seas from Pirates, for which Tunnage and Poundage was added by Parliament. He said, these sudden Opinions, before Judges hear Arguments, bind not; but that upon hear-

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ing Arguments they may alter their Opinions, which is usual: Besides, in this Case the Judges were divided, and the less number subscrib'd for Conformity only. As for the Objection, That the Defendant hath by his Demurrer confess'd all the matters in the Writ to be true; he answer'd, The Demurrer confesseth only such matters of fact as are sufficiently alledg'd, as was adjudg'd in *Hudson's Case*, *Co. Rep. lib. 4. fol. 43. Hind's Case*, *ibid. fol. 71.* and *Birton's Case*, 33 & 34 *Eliz.* where 'tis adjudg'd, that the Usury not being sufficiently alledg'd, was not confess'd by the Demurrer: So the Demurrer here only confesseth there was such a Writ, but not that it was legal, nor supplies the insufficient alledging of any matter therein. He concluded, as his Brother *Berkley* begun, That the People of this Realm are Subjects not Slaves, Freemen not Villains, and therefore not to be tax'd *de alto & basso*, and at will, but according to Law.

Sir *John Denham* one of the Barons of the Exchequer being ill, and not able to come to the Court, on the 26th of *May* certify'd the rest of the Judges, That if his Opinion was requir'd, it was for the Plaintiff: but on the 28th of *May* he sent a second Certificate to this effect, That he understood he had been misconstru'd; for when he deliver'd his Opinion for the Plaintiff, he intended *Hamden*, whom he took to be Plaintiff, for that he coming in upon Process, *queritur se graviter vexari*: and therefore he now declar'd his Opinion for Mr. *Hamden*, who demur'd. For the King cannot take any Lands or Goods, but upon some Judgment of Record, whereby his Majesty may be intitul'd; as where Seizures are made for his Majesty upon Outlawries, Attainders, &c. or where Seizures are given by Statute: but there is no Judgment given upon this Writ in question.

*Mr. Baron Denham's Certificate.*

On the ninth of *June* the Lord Chief Justice *Finch* argu'd. He first recited the Writ of 4 *Aug.* 11 Car. the *Certiorari*, *Mittimus*, and *Scire facias*. He said, the variety of Opinions in debating the Case, shew'd the Difficulty thereof, but withal the Clearness of the Judges, and that there was no Combination among them, but they all agreed in this, that is is the greatest

*Ld Chief Justice Finch's Argument.*



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greatest and weightiest Cause that ever came before them; there being put in one Ballance the Regal Power, or rather the Regality it self, and in the other the Privileges and Liberty of the Subject in his Person and Estate. He spake against vulgar Censure and popular Applause, and that Judges should be steady, like the *primum Mobile*, by whom all others should steer their Course. He said he would speak his Conscience, and they forget their Duty that think the contrary of any one of them, some of them having Fortunes and Posterities, and as much Interest in this Case as Mr. *Hamden*; and others that want those Blessings, want those Temptations that make Men hunt for Honour or Riches to perpetuate their Name and Families: That by the steps and degrees whereby this Cause hath come to Judgment, his Majesty's Clemency, Wisdom, Justice and Goodness will appear. The first Writs 20 Octob. 10 Car. went out to the Port Towns and maritime Parts; wherein the King rely'd on the Judgment and Learning of Mr. *Noy* Attorney General, who had imparted the same to several eminent Persons learned in the Laws, and the Barons of the Exchequer were consulted with therein; against the Legality of which first Writs, nothing had been truly alledg'd: That the Records, Writs and Precedents of E. 1. E. 2. E. 3. and other Kings, being brought to the Lord Chief Justice, Lord Chief Baron and Himself, they deliver'd their Opinions, That his Majesty is sole Lord and Proprietor of the Sea, and is to defend the same and the Kingdom against all hostile Actions and Invasions; and for the performing thereof, the Cinque Ports have been requir'd to prepare Ships and Men of Arms at their own Charges at such times as the Writs mention'd; and for Time, Place and Attendance, his Majesty was the sole Judge. In June 1635. the King requiring their Opinions, whether the Danger being general, the whole Kingdom might not be charg'd; they gave their Opinions, that it may whereupon this Writ issu'd to the Sheriff of *Buck* among others. And afterwards his Majesty finding the Legality of it question'd, call'd all his Judges, and re-

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ne before the Regal id in the subject in gar Cen- should be all others uld speak hat think of them a Interest hat want hat make ate their degrees his Ma- Goodness to Car. e Parts; d Learn- imparted d in the ere con- f which d: That i. E. 2. ne Lord elf, they is sole end the ons and Cinque Men of e Writs nce, his e King ger be not be it may f Buck ding the and re- quir'd them to advise together, and all of them se- verally by himself to deliver his Opinion therein, which they did under their Hands, viz. That when the Kingdom was in danger, of which his Majesty was the sole Judg, his Majesty might by his Writ command all his Subjects at their charge to provide such a number of Ships, with Men, Munition and Victuals, and for such a time as he should think fit, for Defence of the Kingdom, and might compel the doing of it; which Clause, *his Majesty was the sole Judg*, was put in only by ten of them, his Brothers *Hutton* and *Crook* desiring time to advise, but the latter afterwards subscrib'd to that Clause also: And tho his Brother *Crook* said nothing of such his Opinion in his Argument, yet he still holdeth it, both that the King is the sole Judg of the Danger, and that the Charge of the Defence ought to be born by all the Realm in general, which was more absolute than the Opinion of him (the Lord *Finch*) and the rest, which had relation only to maritime Parts; and yet it was deliver'd by his Brother *Crook* readily and without hesitation, which he speaks to this end, That when Judges longly deliver their Opinion to the King, tho it be not binding, yet they ought to have very good reason before they vary from it. He said, after this his Majesty finding slackness in some to contribute, wrote to the Judges for their several Opinions, who met and broke the Writ into several parts. And 1. it was agreed *nomine contradicente*, That when the Kingdom was in danger, the Charge of the Defence ought to be by all in general. 2. That the Charge of the Defence might be commanded by the King. 3. That the King was the sole Judg of the Danger, and when and how to be prevented; to which likewise his Brothers *Hutton* and *Crook* both agreed: what their Opinions are now, and wherein they differ, he would examine. He said, they all declar'd they deliver'd not their Opinions as binding; but Mr. *Hamden* had little reason for so contemptible Sum as twenty Shillings to bring this Case to Judgment: and his Majesty's Clemency appears, in permitting *Arcana Imperii*, nay *Imperium ipsum* to be licen-

*Ann. 1638.* licentiously debated at that Bar, and such a Ravel and diving to be made into his Revenue; nor was it well done to doubt of his succeeding Posterity, or to clog the Court with so many Precedents.

He then came to the Case before them: He said, the Danger of the whole Kingdom was clearly enough express'd in the Writ of 4 Aug. That *datum est nobis intelligi* were words of Certainty, for they shew that the King knew there was Danger: had it been *intelligimus*, none can deny but it had been sufficient; and what difference is there between *intelligimus* and *datum est nobis intelligi*? only this last shews by what means he knoweth it: nor is this like the Case of Patents, *ex certa scientia*, to which the Lord Chief Baron compar'd it; for there the King, before he passes away Land, hath time to be inform'd he may do it, but here the Danger will not permit any further Examination what cause of fear there is. He held also, that the Motives in the Writ are sufficient: Herely'd not on the *Depredations by Pirates, and their leading Christians into Captivity*, tho these are good Motives, for *Bellum Piraticum* points out as much terror as *Hannibal ad portas*; but on the other words, That the Dangers were so imminent, that it behov'd him and his Subjects to provide for the Defence of the Sea and of the Kingdom with all the speed they could, which must be intended of other Dangers than from Pirates; and the subsequent words, For the safe Conduct of the Merchants, shall not take away or limit the former words. He said, he stood not upon *Salus regni periclitabatur* in the *Mittimus*: But admit there had been no express mention of Danger in the first Writ, yet he held the Command it self to prepare Ships, &c. a sufficient setting forth of the Danger; nor is it necessary or convenient for the King to express the Danger in particular: and therefore tho it might have been clearer, yet the Danger is certainly enough express'd in the Writ, and *satis est quod sufficit*. And whereas his Brothers *Hutton* and *Crook* would have this Writ to be for Money, he deny'd it, and said it was to find a Ship, and if they have not of their own, they must build or buy one with

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their Mony : If his Brother *Crook* was requir'd to find a Light-horse, he must buy or hire one with his Mony, and yet the Charge is not for Mony, but to find a Light-horse. He endeavour'd to answer two Objections of his Brother *Crook* : *Object. 1.* If any Surplusage remain'd, it should be divided; which shews the Charge was for Mony. *Answ.* This rather shews the Equality of the Charge, as fittest to be by Payment of Mony. *Object. 2.* *Bucks* being an inland County far from the Sea, cannot build a Ship without a great deal of trouble. *Answ.* But they may hire a Ship; nor are they requir'd to build one, but only *parare*. He said his Opinion was, That the King declaring the whole Kingdom to be in danger, may command all his Subjects to provide Ships to join with his Navy Royal (for the King must bear his part) against the Enemy. His Reasons were, 1. The Defence of the Kingdom must be at the Charge of the whole Kingdom; which he would prove first from the Law of Nature, that every thing should defend it self. Secondly, from the Rule of Reason, *quod omnes tangit, ab omnibus supportari debet*. Thirdly, from the true use of all we enjoy, which ought to be employ'd for the Good of our Posterity; like him that spares some Blood to preserve his Health, or some part of his Ground for Ditches and Fences to secure the rest. Fourthly, from the Law of Property; if any one in time of Peace take away anothers Goods, the Trespasser may be punish'd as well by Indictment at the King's Suit, as by Action at the Suit of the Party; which shews, that the King hath an Interest in the Goods (as well as the Party) for the common benefit: and in a Case of necessity or imminent Danger, 'tis agreed by all, the Subject ought to defend the Kingdom. 2 *Reason.* The King hath by the fundamental Laws of this Kingdom the sole Interest and Property of the Sea, and the sole Power of laying this Charge. Here he spake of the Excellency of the Monarchical Government in this Kingdom, cited *Fortescue* of the Excellency of our Laws (but said he was never Chancellor of England) *Magnalen-College Case*, *Sir John Davy's Reports*, *Stat.*

*Ann. 1638.* 24 H. 8. 25 H. 8. 1 Eliz. and 1 Jac. and Mr. Sel-  
den, to prove the Property and Dominion of the Sea  
to be in the King. Parliaments are an excellent  
means of charging the Subject, but not the only  
means: The two Houses without the King cannot  
make a Law: There was a King before a Parliament,  
and however his Power may be since limited by a  
positive Law, he had originally the Sovereignty of  
the whole Kingdom. 3 Reason. The Law that hath  
given this Power to the King, hath given him means  
to put it in execution, by charging his Subjects for  
Defence of the Kingdom: And as the King is bound  
to defend, so the Subject is bound to obey, to come  
out of their own Countries, and to provide Horse  
and Arms in foreign Wars, and for Defence at  
home Guns and Munition; and the Sea and Land  
being but one Kingdom, to provide Ships, Men,  
Victuals and Necessaries for that Defence; which  
is more necessary for us Islanders than a Defence  
by Land: and therefore in 1588. it was resolv'd  
not to suffer the *Spaniard* to land, but to fight him  
by Sea.

For Authorities, he affirm'd, 1. There was not one  
Authority cited by his Brothers *Hutton* and *Crook*  
that the King might not in time of Danger charge  
the Subject for Defence of the Kingdom. 2. All  
those Authorities that give the King Aids, Taxes  
Subsidies, &c. for Defence of the Kingdom, prove  
the Subject is bound to pay them in time of Danger.  
3. The Authorities of Murage, Pontage, Saltpetre  
&c. shew the King's interest in the Subjects Estates.  
4. The King's Authority of commanding the Sub-  
jects Persons out of their own Counties into foreign  
Parts, infers that much more their Estates should  
be at his Command, for Defence of the Kingdom.  
5. The Commissions of arraying Men in E. 1. E.  
E. 4. H. 7. and H. 8's time, were granted upon the  
same reason, for Defence of the Kingdom.

For Precedents, those alledg'd by the King's Coun-  
sell are of good Authority: The first was before the  
Conquest, in the times of *Edgar*, *Alfred*, *Ethelred*  
&c. that by the King's Edict the Defence us'd to

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which *La*  
*John*, *M*  
4. Chamb  
*Fitz. N.*

at the Charge of the whole Kingdom. He remem-  
ber'd the Grant of divers Privileges to the Clergy,  
with an Exception of *Pontium, &c.* and the Council of  
*Enoch*, cited by Sir *Henry Spelman*, fol. 510. the  
Constitutions there made, and the *navales Expeditiones*,  
where the word Expedition is us'd for War :  
All which shew the King's power to charge the Sub-  
ject for Defence in time of Danger. He believes  
*Danegelt*, or something in lieu of it, continues still ;  
for it was never taken away by Parliament : He ob-  
serv'd the Precedents were all upon one common  
Reason, That the Writs were not limited as to number  
or time, and some went out to inland Counties, some-  
times to some of them, and at other times to other  
some. He cited several Precedents in the times of  
the four first *Edwards*, R. 2. the five last *Henrys*, and  
Q. *Eliz.* to prove the Inlands contributed towards  
the Maintenance of the Sea-coasts; and the Abbot of  
*Roberts-Bridge's Case*, 25 E. 1. m. 13. is a full Pre-  
cedent of great Authority. He said, for ordinary  
Defence the Precedents go to maritime Coasts only ;  
but where the Danger is general, to inland Counties  
also ; tho not so frequently, for that such Danger  
was but seldom. His Brother *Crook* objected, that by  
these Precedents men were compellable to find  
Arms, but not Money. *Answ.* 1. *Bona Corporis* are  
above *Bona Fortune* ; if (as he agrees) the King can  
command the Subjects Persons for necessary Defence,  
much more their Estates. 2. The Precedents are  
quite contrary, for Wages have been paid to Soldiers  
by the Subjects. He then answer'd several other Ob-  
jections : *Object.* 1. This Writ is against the Common  
Law, for there is no Precedent for it, this being the  
first of that kind since the Conquest. *Answ.* There  
are Precedents for it ; and the Law is, that the King  
may charge his Subjects. *Object.* 2. The Subject  
hath a Property in his Goods, which cannot be taken  
away without his actual or imply'd Consent ; for  
which *Lambert* fol. 294. *Fortescue* 9. cap. 13. 17 King  
*John*, *Magna Charta*, *Matthew Paris* fol. 242. 13 H.  
4. Chamberlain of *London's Case*, *Register* fol. 127.  
*Fitz. N. B. &c.* were cited. *Answ.* By the Conque-  
ror's



Ann. 1628. *W*or's Grant in *Lambert*, That all Freemen should be free from all unjust Exaction, and from Tallage, is intended unjust Tallage (which is a *French* word, and most commonly taken in the worst sense) as well as unjust Exaction; and his Brother *Crook* had left out the subsequent words (which explain the former) that they were to defend the Kingdom *pro viribus suis & facultatibus*, that is, with their Goods as well as by their Persons: And its coming after the Statute of Tenures and Services, shews it was not intended to free any Man from the Charge of defending the Kingdom. *Object.* 3. The Charter of King *John*, *nullum Tallagium imponatur, nisi per commune Concilium*. *Answ.* The Exception *nisi ad redimendum Corpus nostrum*, and the words *Scutage, Murage*, and other Aids there mention'd, shew that this was meant only of private Aids, and not of publick for the Kingdom's Defence. *Object.* 4. The Authority of *Fortescue*. *Answ.* That relates only to the Common Law, and not to any of the Acts of Parliament that took away the Regal Power; for it was written after them all, yet mentions them not, and shew only the difference between an absolute and limited Monarchy. The places insisted on are *9. cap. 26*. That the King cannot without his Subjects Consent change the Laws, or lay Impositions; and *cap. 13. fol. 32.* that they may not take their Goods against their wills; and *cap. 39. f. 3.* that the King nor can lay Tallages, Subsidies or other Charges on his Subjects, nor change their Laws or make new ones without common Consent in Parliament. The meaning of all which he takes to be, That the King ought to govern according to the positive Laws; That every Subject hath an absolute Property in his Goods and Estate, and the King cannot take them to his own use, nor lay any Tallage or Imposition to his own use without their Consent in Parliament; But for the Benefit of Trade the King may lay fit Impositions and command what is for the necessary Defence of the Kingdom. *Object.* 5. By this course the Liberty and Property of the Subject is lost. *Answ.* All private Property must give way to the publick; and if a Man hath a property in his Goods, he must not use them to the detriment of the Commonwealth.

if he destroys his Goods, or throws them into the Sea, he is punishable by the Common Law, as he is by several Statutes for transporting them: And his Brothers *Hutton* and *Crook* agreed, that in case of necessity all are bound *exponere se & sua* to defend the Kingdom. *Object. 6.* That his Majesty means to make a private personal and annual Profit by it.

*Ans.* His Majesty hath apply'd all that was receiv'd to the right end, and a great deal more; and he hath profess'd he was bound in Conscience to convert it to that use, and would sooner eat the Money than apply it otherwise. *Object. 7.* Tho the King will not charge his Subjects but upon urgent necessity, yet we know not what may be done in succeeding Ages.

*Ans.* If After-ages should charge the Subject unreasonably without cause, this Judgment will not warrant it; and the King is trusted in greater matters: The King may pardon all Offences, yet if he should, none could be safe: He may make Peace or War; and if he should make a Peace or War that would ruin us, it would be worse than this. But 'tis not to be suspected the King would do any thing against Law and the publick Good: He can do no wrong, for he is *Sponsus Regni*, as in *Magdalen-College Case*.

*Object. 8.* To the Chamberlain of *London's Case*, and some others, answer'd, they are nothing against this, but rather for it. *Object. 9.* To *Leaver's Case*, 14 R. 2. Rot.

where a Judgment in *Durham* was revers'd, for that it appear'd the Plaintiff had consented to an Ordinance by Agreement, that what Money every man had in his House should be taken thence to satisfy the debts, who had besieg'd the Town: he answer'd, it follow'd not, tho the Ordinance was good by Consent, that it had been void without Consent, nor that Men are not without their Consent to contribute to necessary Defence. *Object. 10.* The Record 2 R.

*pars prima*, where the Lords and Sages met, and it was agreed by the Lords, That they could not charge without Parliament. *Ans.* 1. It was no Act, but a declaration, or rather the Chancellor's relation what the Law was. 2. It could not be binding without

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the King. 3. It's no good Precedent; for the King was young, and the Parliament had the Regency, and were therefore to be pleas'd. 4. It's only that the Lords could not charge the Commons by themselves. 5. It was for foreign Wars, not for the Defence of the Kingdom; and to them *Gascoign's Rule*, 24 *H. 4. fol. 4.* is to be apply'd, That no Man shall be charg'd without Parliament. *Object. 11.* No Man knows what this Charge may be in time; *Danegelt* in eleven years rose from 12000 *l.* to 48000 *l. per annum.* *Ans. 1.* If the Danger increase, so must the Charge. 2. Abuses should not take away the Use of any thing. 3. We cannot suspect there will be such Abuse; *ubi confidit Deus & Lex, & etiam nos confidemus.* *Object. 12.* The King cannot charge his Subjects without Parliament in time of Peace. *Ans. 1.* The Danger may be as great when the Enemy is not discern'd, as when on land. 2. So then till there is a time of War, the Course of Law stop'd, and Judges have no power or place, the King may not charge the Subject; but when there is such a Confusion as no Law, then he may do it: *dato uno absurdo infinita sequuntur.* 3. There may be War in one part of the Kingdom, and yet the Judges sit in *Westminster-Hall*, as in 14 *H. 3.* and *R. 2.* and *H. 7.* time. 4. If the Danger be in one part of the Kingdom, it's alike perilous to all; and if the King may charge for Defence of the Land, he may for the Sea likewise. 5. If we stay till the Danger comes, it will be too late; and so it had been 88, if it had not been provided for before. 6. The King's Averment of the Danger is not traversable, but binding. *Object. 13.* by his Brother *Crook*, That there is a Means provided by Parliament, who will not withhold Aid for the Defence of the Kingdom, and in *E. 1. E. 2.* and *E. 3.* time, a Parliament was to be held every year. *Ans.* That was when there were Pleas in Parliament, which are now laid aside. A Parliament is one means for the Defence, but not the only means; they may take away some Flowage and Ornaments, but not the Crown it self; they cannot bar a Succession, nor a King of his Re-



lity, or the Allegiance of his Subjects, or of his Power to defend them : and Acts of Parliament to bind the King not to command the Persons, Goods or Mony of his Subjects (for Acts of Parliament make no difference between Goods and Mony) are void.

He then came to the Statutes that had been objected : (1.) Stat. 25 E. 1. *Confirmatio Chartarum.*

*Answ.* The Aids which should not be brought into Precedent, &c. were only such as were granted voluntarily, and antient Aids are there reserv'd.

(2.) Stat. *de Tallagio non concedendo*; *Nullum Tallagium imponetur, nisi per commune Concilium*, &c. *Answ.*

1. It is not in some printed Books, nor in the Parliament-Roll, and but an Abstract; but he would with the rest of his Brothers admit it a Statute.

2. No unlawful Tallage is only intended, otherwise the making the King's eldest Son a Knight, and marrying his eldest Daughter would have been excepted.

3. 'Tis intended where the People are tax'd alone; but here the King contributes as well as they. 4. An Act of Parliament cannot take away this Power from the King, much less those general words. (3.) Stat.

14 E. 3. cap. 1. None chargeable but by common Consent. *Answ.* The words are as general as in *de Tallagio*, and the Practice afterwards best interprets it. (4.) Stat. 25 E. 3. cap. 8. No finding Men at Arms but by Consent, much less Ships. *Answ.* The Precedent following, 4 H. 4. shews it reacheth not this

Case. (5.) Stat. 2 H. 4. m. 2. A Commission for Defence of the Sea complain'd of in Parliament, and repeal'd. *Answ.* It was but a Repeal of that Commission. (6.) Stat. 1 R. 3. cap. 2. The Statute against Benevolence. *Answ.* It was against Benevolence only, and made by a King who was to please the People.

(7.) Stat. 13 H. 4. Parl. Rot. n. 10. The Statute of Tunnage and Poundage granted for Defence of the Sea; That no Tallage or Aid should be without Act of Parliament; That the King hath means to defend the Realm, with a Protestation not to draw it into example. *Answ.* The Protestation is of the Commons; and it was for the ordinary Defence of the Sea, not extraordinary, nor intended that they should

*Ann. 1638.* not be granted if the whole Kingdom were in danger. The 8th Objection was the Petition of Right 3<sup>d</sup> Car. That no Charge should be impos'd but by Parliament. *Answer.* He was then Speaker of the Lower House: He said, there is no mention therein of this case, nor any new thing granted, but antient Liberties confirm'd, for the Commons protested it was not meant to bar the King of his antient Rights; and the main scope of the Petition was against, 1. Loans. 2. Imprisonment without cause. 3. Billeting of Soldiers. 4. Mariners quartering on the Land.

He then answer'd the Objections against the body of the Writ, and the *Scire facias*. *Object.* 1. The Writ commands the Sheriff to assess and levy according to his discretion; whereas he should assess by the Oath of a Jury, as in Partition, &c. and not upon Presumption only, which is the cause of great inequality, and there is no Precedent for it. *Answer.* 1. No more reason for an Assessment *per Sacramentum* here, than upon a Commission to levy Subsidies. 2. The Sheriff is trusted with the Power of the County, which is a greater matter; and he swears to execute his Office justly. 3. There is no Precedent that it hath been done by a Jury, but always by the Sheriff, or whom the King pleased to trust; and we see the Sheriff readily doth it. 4. If the Towns and Counties provide a Ship, as the Writ commands, an Assessment is not requisite; so 'tis at their choice whether any Assessment or no. 5. The Clause of Assessment is not to the Sheriff alone, but to the head Officers of Towns and Boroughs. 6. All are to be assess'd *juxta facultates*; and if the Sheriff do otherwise, he is punishable by antient Precedents. And Sir Walter Norton, High Sheriff of Lincolnshire, is now question'd in the Star-chamber for an Abuse in levying this Charge. He said it had been given in charge to the Judges to rectify these Rates in the Circuits, and he himself had rectified several. *Object.* 2. The Sheriff cannot tax himself, or commit himself; and if he should be omitted out of the Assessment, it cannot be equal, for all are to be assess'd

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assess'd. *Ans.* This is done in matters of less consequence; the Justices of Peace in levying Subsidies, and the Commissioners of Sewers tax themselves; the Sheriff in levying Expences for Knights of the Shire, and in a Writ of discovery *de bonis Inhabitantium*, and where a Fine is laid upon the whole County, all which are executed by the Sheriff, is chargeable for his part. *Obj.* 3. The Writ is directed *probis Homi- nibus*, which is void. *Ans.* A Grant by the King *probis hominibus* is void: See 1 *H.* 7. *Dier Ph.* & *Mar.* 7 *Eliz.* 4, 14. But 24 *E.* 3. A Writ to charge *Yarmouth* was *probis hominibus*, and this Writ is for no more than to assess them, which is good enough. *Obj.* 4. It's impossible to build a Ship in an Inland County, and to carry her to *Portsmouth*. *Ans.* But it's possible to provide a Ship and Mariners with Mo- ny. *Obj.* 5. Our County hath no Mariners, only train'd Soldiers and Husbandmen. *Ans.* There is the like occasion of Husbandry in *Kent*, and Towns not Maritime, but twenty Miles from the Sea, and yet justly charged, otherwise none should be charged but Port Towns; till *Alfred's* time all *England* was but one Maritime County. *Obj.* 6. The payment of Soldiers Wages for twenty six Weeks is against many Precedents, as 16 *E.* 2. 10 *E.* 3. and Soldiers have refus'd to go out of their Counties till paid by the King. *Ans.* These Precedents prove no more than payment of Wages *de facto*, and so the King may pay it when not due: But 10 *E.* 3. *M.* 2. the *Berk- shire* Men refus'd to go out of their County at their own Costs, and yet no Payment by the King, but the County paid them, and they were forc'd to go; So 13 *E.* 3. *M.* 8. *Obj.* 7. 1 *E.* 3. *M.* 14. none to go out of their County without Wages: 18 *E.* 3. *M.* 6, 7. none to go out of the Inland Counties, and the King to pay all their Wages. *Ans.* In 1 *E.* 3. Cases of necessity are excepted. And it is express'd in the Act of 18 *E.* 3. when they go to the King's Wars out of the Kingdom; so 18, 19 *H.* 7. all which was but declarative of the Common Law; as *Corbet's* Case: But there is no Act of Parliament, that the King shall give Wages within this Kingdom, and



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consequently not upon the Sea, for the Sea and Land make but one intire Kingdom, *Obj. 8.* This Writ is against *Magna Charta*, *Nullus liber Homo imprisonetur.* *Answ. 1.* The mentioning of the Nobility, that they are privileg'd from Imprisonment, might well have been spar'd; for they may be imprison'd for a Contempt. *2.* There is no Imprisonment in question, but only to pay, or shew cause to the contrary. *3.* Were the form of the Writ illegal, yet the Command (the Substance) is legal. *Obj. 9.* The direction of the *Certiorari* is to two Sheriffs out of their Offices, not to the present Sheriff. *Answ.* Nothing more frequent than the *Certiorari* to issue out to the Judge that took the Fine and is remov'd: So upon a *Dedimus Potestatem*, so *Hubbart's Case*, *B. R.* upon a *Certiorari* to Sir *Julius Caesar*, then Master of the Rolls, and in the Lord *Paget's Case*; and in this case the Writ must remain with the old Sheriff. *Obj. 10.* The first Writ is without return, and the *Certiorari* being a year and half after, cannot renew it. *Answ.* A just Debt shall not be avoided, because the time limited for the doing of the thing is expir'd. *Obj. 11.* It appears not, that Mr. *Hamden* was Tertenant, or that *Stoke-Mandevil* is in *Bucks.* *Answ.* The Sheriff certifies, that he hath assess'd the Tertenants of *Bucks.* whose Names are subscrib'd, and Mr. *Hamden* was one, and the same course was taken in the Knighthood business. *Obj. 12.* No Ship was prepar'd. *Answ.* A Ship was prepar'd; and if none, the fault was in them that paid not their Mony. *Obj. 13.* The King is not entituled to bring the *Scire facias*, nor is there any Person for whose benefit Mr. *Hamden* should pay the Mony. *Answ.* The King is interested in all Actions for the publick Good, as Highways, Pontage, Murrage, &c. He may recover in *quare impedit*, or *Sui* by a common Informer, tho no Party; so it was in the case of Knighthood: He may compel the performance of charitable Uses, and payment of *aurum Regina*, much more for defence of the Kingdom. *Obj. 14.* by his Brother *Denham*, The King cannot take without Record, as upon Outlawry, Attainder, &c. and here's no Judgment of Record upon the Writ

4 August. *Answ.* The Judgment upon the Writ is, *oneretur, & inde satisfaciet*; and upon his saying nothing why *revocetur*, there shall be a good Record to charge him. 3 *Eliz.* Dyer 156. *Ignoramus* is a sufficient Title for the King, and ground for a *melius inquirendum*. *Obj.* 15. No *scire facias* lies upon the Tenor of a Writ: 39 *H. 6.* fol. 34. 21 *Eliz.* Dyer fol. 205. *Answ.* In 39 *H. 6.* the Doubt was, because the Party might be subject to a double Execution, one upon the Record, and another upon the Tenor of it in another Court: 33 *E. 3.* Title Tenor by Transcript: 8 *H. 5. F. H.* Error *scire facias*. Register, fol. 51. the Record was in the King's Bench, and the Tenor was sent to the Barons of the Exchequer. 'Tis usual to certify the Tenor of a Recognizance forfeited, and the Transcript of a Fine or Amerciament: And upon a Transcript of an Act of Parliament from *Ireland*, or of a Record in one of the Courts there, a *scire facias* hath issued in *England*. *Obj.* 16. by the Lord Chief Baron: A Judgment in this case would be fruitless, for none would take benefit by it. He answer'd him with a Case of his own: A Writ issued 1 *Car.* to the Sheriff of *Berkshire* for all of 40 *l. per annum* to come and take the Order of Knighthood; who made his return with their Names subscrib'd, and a *Mittimus*, as here: and upon a *Distringas* to the Sheriff against the Defaulters, the Barons know what Judgment was given, much more than when upon a *scire facias*; and there only the Tenor of the Record was sent into the Exchequer.

His Opinion was, that all the Proceedings are well grounded according to Law; that Mr. *Hamden* should be charged with the Twenty Shillings assess'd, and the Lord Chief Baron ought to give Judgment accordingly.

After the Counsel on both sides and the Judges had *Judgment* argu'd, Mr. *Attorney General* in *Trinity Term* mov'd *against* for Judgment against Mr. *Hamden*, and the Barons *Mr. Hamden* order'd Judgment to be enter'd accordingly, in which Order was recited the Writ of 4 August 11 *Car.* the *Certiorari*, *Mittimus*, *Scire facias* and Demurrer, the

*Ann. 1638.* the Adjournment into the Exchequer-Chamber, the solemn Debates there, and the Opinions of the Plurality of the Judges against him: and the Order concluded, that Judgment should be enter'd, that the aforesaid *John Hamden* should be charg'd with, and satisfy the aforesaid Sum of Twenty Shillings.

One *Harrison* a Clergyman calls *Mr. Justice Hutton* Traitor. *Mr. Justice Hutton* having argued as before on the 28th of April in the case of Ship-mony, one *Thomas Harrison* of Creek in Northamptonshire Clerk, on the 4th of May came to the Common Pleas Bar, the said Justice *Hutton* and *Mr. Justice Cramley* there sitting, and the other several Courts sitting likewise; and with a loud Voice pronounced these words, *I do accuse Mr. Justice Hutton of High-Treason*: whereupon being apprehended, and examin'd before the Lord Chief Justice *Brampton*, and ask'd what was the Point of High-Treason; he said, 1. He deny'd the King's Supremacy, in affirming the King had no lawful Power to levy Shipmony. 2. He had mov'd the People to Sedition; for that (by the report of divers) the People about the place where he liv'd go on in their Stubbornness in refusing to pay Shipmony, contrary to the Opinion of all the Orthodox Divines of the Kingdom; and *Mr. Justice Hutton* in his Circuit encouraged them in their Disobedience. Being ask'd why he made choice of this publick way; he answer'd, because the other had deliver'd his Opinion publicly. For this high Contempt *Harrison* was indicted, and in Trinity Term try'd at the King's Bench Bar, where *Mr. Attorney General* aggravated the Offence: He said by 25 E. 3. it is declar'd Treason to kill a Judge in Execution of his Office: 19 E. 3. Judgment 174. 22 E. 3. 13. *Mich. 6 E. 3. coram Rege: Rot. 55. Stamford's Pleas of the Crown 38.* If one draw a Weapon upon a Judge sitting in Judicature, he shall lose his Right-hand, forfeit his Lands and Goods, and be imprison'd during Life: If one strike a Juror, or other Person in *Westminster Hall* sitting the Courts, it hath been punish'd with loss of Hand, and of Lands and Goods during Life. *Harrison's* Offence is not the accusing Judge *Hutton* of Treason, but the forging an Accusation out of his own Brain without any ground, and

He is indicted, tried,

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and that in such an insolent and mad way against a reverend Judg sitting in the Seat of Judgment. 37 H. 6. 3. If one call another Traitor, an Appeal lieth before the Constable and Marshal. 30 lib. Ass. one call'd Justice Seaton Traitor, and answer'd well in Damages. Mich. 5 Car. B. R. Jeoffes was indicted and fin'd for calling Justice Traitor. He said, *Harrison* might expound a Text, but could not expound the Statute of 25 E. 3. what is Treason, and what not. *Tractent Fabrilis Fabri*. That the Party accus'd is known to be a grave, honest, learned and reverend Judg; and the Offence trenches upon the King himself, who hath commanded them his Counsel to appear against the Offender. Mich. 33, 34 E. 1. coram Rege Rot. 75. Roger de Higham gave Judgment for Mary Bruce against William Bruce, who was of a noble Family, and who said to the Judg, Now Roger, Roger, thou hast thy Will, which of long time thou hast sought: The Judg ask'd him what was that; he said, my Shame and Loss, and this I will think on: He was indicted and adjudged to go from the King's Bench bareheaded, &c. through the midst of Westminster-Hall to the Exchequer where he offended, and ask forgiveness of the said Roger; and afterwards he was committed to the Tower during the King's Pleasure. *Harrison* was found guilty: But what Judgment the Court gave appears not. And found guilty.

The Opinion of the Majority of the Judges in the case of Shipmony, and the Judgment thereupon against Mr. *Hamden*, made a very great noise, and was most bitterly exclaim'd against, as if the Judges had at one blow deliver'd up to the King the Liberties and Properties of the Subject. And in the beginning of the Long Parliament 1640. several Speeches were made by the Members of the House of Commons against Shipmony. And tho somewhat out of order of time, yet to keep the thred of our History the more intire, we have inserted some of them here, together with the Votes of the Commons, and afterwards of the Lords concerning it. The gene-ral dissatisfaction about Shipmony.

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Ld Falk-  
land's  
Speech con-  
cerning  
Shipmony.

The Lord *Falkland* spoke in the Commons House to this effect: That our Constitution had endeavour'd to establish to us the security of our Goods, and of those Laws which should defend us and them, by appointing us Judges, so settl'd, so sworn, that there can be no Oppression, but they must be accessary: But this Security hath been almost our ruin, for it hath been turned into a Battery against us; and those who should have been as Dogs to defend the Sheep, have been as Wolves to worry them. These Judges have deliver'd an Opinion and Judgment in an extrajudicial manner: By which, 1. They have contradicted many Acts and Declarations of Parliament in this very Reign. 2. They have contradicted apparent Evidences, in supposing mighty Dangers from a few contemptible Pirates in the most serene and peaceable days imaginable. 3. They contradict the Writ it self, by supposing the Danger so sudden, as would not stay forty days for a Parliament, when the Writ was in no such hast, but would have staid seven times longer: And tho it begot the more general wonder, that all Men saw the Law but themselves, yet that when they had allow'd the King the sole Judgment of necessity to take from us what, when, and how he would, they still pretended they had left us our Liberties and Properties, that they had disabled us by legal Supplies to express our Affections to his Majesty, and that they had abus'd a most excellent Prince by telling him he might do what he pleas'd, hath begot the more general Indignation. He mov'd that this Judgment and these Judges may be taken away together, and their Successors regulated by their exemplary Punishment.

Four Votes  
of the  
House of  
Commons  
against it.

After this matter had been fully debated in the House of Commons, the House the 7th of December 1640. passed these four Votes, *Nemine Contradi-cente*. 1. That the Charge impos'd on the Subjects Property, and contrary to former Resolutions in Parliament, and to the Petition of Right. 2. That the extrajudicial Opinion of the Judges for Shipmony, publish'd in the Star-chamber, and inroll'd in the Courts

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Courts at Westminster [here both Case and Opinion were recited *verbatim*] are against Law, Property and Liberty, and contrary to former Resolutions in Parliament, and the Petition of Right. 3. That the Writ to the Sheriff of *Bucks* for assessing and levying Shipmony [which was recited *verbatim*] and the other Writs, commonly call'd the Ship-Writs, are against Law, Property and Liberty, and contrary to former Resolutions in Parliament, and to the Petition of Right. 4. That the Judgment in the Exchequer in *Mr. Hamden's Case* [a Transcript whereof was recited *in hac verba*, concluding, *Quod prædictus Johannes Hamden de eisdem viginti solidis oneretur, & inde satisfaciatur*] in the Matter and Substance thereof, and in that it was conceiv'd that *Mr. Hamden* was any way chargeable, is against the Law, Property and Liberty, and contrary to former Resolutions in Parliament, and to the Petition of Right.

These Votes being transmitted from the House of Commons to the House of Lords, there were two Speeches upon that occasion made in the House of Lords by *Edward Hyde Esq;* afterwards Earl of *Clarendon*, and Lord Chancellor of *England*, and *Oliver St. John Esq;* the Substance of both which follow.

He said, there could not be a greater instance of a sick and languishing Commonwealth, than the business of that day: No wonder Arbitrary Power had like a Torrent broken in upon us, when our Banks, the Laws, were in the Custody of such Judges, who having lost their Innocence, could not preserve their Courage. One said, the twelve Judges were like the twelve Lions under the Throne of *Solomon*. Their Lordships should this day hear of six of them, who were no Lions, but upon vulgar Fears deliver'd up the precious Forts they were trusted with; and had lost and forfeited that Reverence which their venerable Predecessors had fastned to the Places they hold; and have render'd their Profession so contemptible, that had not this blessed Day come Men would have had the same Quarrel to the Law that *Martius* had to the Greek Tongue, which he would not learn, for that

*Mr. Hide, afterwards Ld. Chancellor, his Speech against it.*



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that the Masters thereof liv'd in Bondage: and he appeal'd to those unhappy Gentlemen themselves, with what Negligence, Scorn and Indignation the Faces of all Men have been directed towards them, since that fatal Declension of their Understandings. These Judges harden'd their hearts by Impositions upon the Merchants in Trade, and by Pressures upon the Gentry in Knighthood, before they could arrive at that universal Destruction of the Kingdom by Ship-mony, whereby they took upon them to do the work of a Parliament to his Majesty in Supplies. And the Commons hop'd their Lordships would speedily call them before them, to answer the Articles laid to their charge, and deal with them as their Crimes demerit.

Mr. St.  
John's  
Speech  
against it.

He said, the Commons had intrusted him with a Message of a general and high Concernment, one of the *Grandia Regni*: It is not that Ship-mony hath been levy'd upon us, but that Right whereby Ship-mony is claim'd, the payment whereof is the earnest penny of all we have: It is not that our Persons have been imprison'd for Ship-mony, but that both our Persons and Lives are upon the same ground deliver'd up to bare Will and Pleasure, and our Condition of free-born Subjects lost: The Villain, tho' the Lord might tax him *de haut & de basse*, might take all his Lands and Goods, and imprison him at his pleasure, yet the Law secur'd him his Life; but as the Law now stands declar'd, it is disputable whether it doth so much for us. The Subject of his Message was to present the sense of the Commons to their Lordships, That the Laws which were assented to by their Ancestors, for the preservation of themselves and us their Descendents, have been of late intrusted in such hands, as have endeavour'd to turn them to a contrary end to that for which they were ordain'd, and to make them the Instruments of taking from us all we have. That which hath produc'd this sense of the Commons, are certain extrajudicial Opinions deliver'd by the Judges in November 1635, and February 1636. the Ship-writs which have issu'd to all the Counties of England for many years last past with-

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out intermission; the Declaration of the Law, whereby it may be impos'd, and the Judgment thereupon in the Exchequer in Mr. Hamden's Case. The Opinions in November 1635. were to this effect: That as where the Benefit doth more particularly redound to the Ports or maritime Parts, as in case of Piracy, there the Charge hath been, and may be lawfully impos'd upon them, according to former Precedents; so where the Safety of the Kingdom in general is concern'd, and the whole Kingdom in danger (of which his Majesty is the only Judg) there the Charge of the Defence ought to be born by all the Realm in general. These Opinions were procur'd of the Judges severally and apart by the Lord Finch, and walk'd in the dark for a year and upwards, and afterwards shew'd by him to his Majesty, from whom he procur'd a Letter to the Judges for their Opinions in these and some other Additionals. The former were more modest, for they do not declare that this Charge may be impos'd by his Majesty alone, nor by whom; but in the other in February 1636. they proceed *a malo ad pejus*, and speak plain English, viz. That when the Safety of the Kingdom in general is concern'd, and the whole Kingdom in danger, his Majesty may by Writ under the Great Seal command all the Subjects of this his Kingdom at their Charge to provide and furnish such number of Ships, with Men, Victuals and Munition, and for such time as his Majesty should think fit for the Defence of the Kingdom, and by Law may compel the doing thereof, in case of Refusal or Refractoriness: And that in such case his Majesty is the sole Judg both of the Danger, and when and how the same is to be prevented and avoided. These Opinions were subscrib'd by all the Judges, publish'd in the Star-chamber, and enroll'd in all the Courts of Westminster-Hall; and the plain and legal sense he takes to be, That his Majesty as often as he pleaseth may declare the Kingdom in danger; That so often for prevention thereof he may by Writ under the Great Seal alter the Property of the Subjects Goods, without their Consent in Parliament, in such proportions as he shall think fit; and for the prevention of such Danger, may deprive them

Ann. 1638. them of the Liberty of their Persons and of their Lives, and that in such manner as himself shall please. For if the King be sole Judg of the Danger, he may declare the Danger as often as he pleaseth: If he may so often command the Subjects at their Charge to provide Ships, Men, Victuals and Munition, he may as often alter the Property of their Goods: If he may appoint the number of Ships, the time they are to serve, &c. he is to determine what proportion of their Goods he will alter the Property of: And if in case of Refractoriness he may compel the doing of it, and is the sole Judg how the Danger is to be prevented, this Compulsion includes the Person as well as the Estate, nay sounds more in the Personalty than otherwise; and whether it shall extend to Life, is left wholly in his Majesty's Breast. If these Opinions went no further than Ship-mony, it were enough; his Majesty takes what he will and when he will, and no Property is left to the Subject: but Ship-mony is therefore due, because his Majesty for the Defence of the Kingdom may at his will and pleasure charge the People, and the Compulsion upon the same ground may extend to the making and maintaining Castles, Forts, Bulwarks, Bridges, transporting Armies, Wages, Victuals, Soldiers, Horses, Carriages, and so in infinitum. If these Opinions be Law, he leaves it to their Consideration whether the Government be not *Imperium legibus solutum*.

He next open'd one of the Ship-writs, commanding a Ship of War to be provided with all Necessaries, the Sheriff to assess every one *secundum statum & facultates*, to distrain them, and *si contrarios invenerit* to imprison their Persons; and the Writ declares that all this may be done *secundum legem & consuetudinem Regni*: By the Law the Lord might imprison his Villain, but could not transfer that Power to his Bailiff.

He then open'd the Record of the Judgment in the Exchequer 13 Car. against Mr. Hamden. 4 August 11 Car. A Ship-writ issu'd to the Sheriff of Bucks who assess'd the Inhabitants, and upon a *Certiorari* out of Chancery certify'd those who made default

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Payment, and the Sums assess'd on them; which being sent by *Mitrimu* into the Exchequer, a *Scire facias* issu'd thence to the Sheriff, who returns that Mr. Hamden had been assess'd twenty Shillings for Lands in *Stoke-Mandevil*, which he had not paid: Mr. Hamden appear'd, and after Oyer of the Ship-writ and other Proceedings, demur'd in Law. The Barons desir'd the Assistance of the rest of the Judges: There were two Arguments on one side, and two on the other; two of the four were in *Michaelmas* Term: and this was a Case of so little concernment, that whereas Term after Term is usually given to argue any Demurrer, no longer time could be procur'd for the other two Arguments, than the short Vacation between *Michaelmas* Term and *Christmas*. Afterwards the Case came to be argu'd at the Bench; and by the Opinion of the greater part of the Judges, Judgment was given by the Barons against Mr. Hamden, *quod de eisdem viginti solidis exinde satisfaciat*: which Judgment hath been held so binding ever since, that an honorable Person was deny'd any Argument or Debate in the King's Bench concerning the Right of Ship-mony, because it had been adjudg'd already in the Exchequer.

The Commons have taken these extrajudicial Opinions of the Judges, these Ship-writs, and this Judgment into their Consideration; and without one negative Voice, have pass'd four several Votes upon them to this effect: That they are against Law, Property and Liberty, contrary to the former Resolutions in Parliament, and to the Petition of Right. Before they proceeded to these Votes, they consider'd the Proceedings in the Parliament held 13 Car. when the Petition of Right was fram'd; they went no higher, because then had been debated Property and Liberty (by occasion of the Loan, and the Instructions which accompany'd it) and Security of our Lives, occasion'd by the Commissions for Martial Law. He was commanded to present to their Lordships three things which satisfied the Commons: 1. The Commissions for the Loans, with the Instructions; these issu'd out 13 Octob. 2 Car. for a compulsory

1643.

sent Aid by way of Loan; and the Causes express'd in the Commissions were, The King found the Crown engag'd in a War, by Advice of both Houses of Parliament; the Parts beyond Sea where our Cloth is vented, and from whence comes most of our Provision for Shipping, endanger'd; his Majesty's Treasures exhausted; a Parliament summon'd, but no Supply; unavoidable Necessity; our Enemies multiply'd; the Kingdom threaten'd by great and mighty Preparations by Sea and Land; the King's Honour, the Safety of him and his People, and true Religion abroad, are in danger of suffering irreparably, and these cannot stay for a Parliament; the People assure on the King's Royal Word not a penny should be bestow'd, but upon those publick Services only; and the Commissioners diligence requir'd, as they tender'd the King's Honour and the Kingdom's Safety. Here *Salus Regni periclitabatur*, as in the Ship-writs but this being a compulsory thing, and becoming by the Instructions to bind over to the Board and imprison for Refusal, these Commissions were in the Parliament 3 *Car.* resolv'd in the Commons House to be against Law, and declar'd afterwards to be so by his Majesty and both Houses in the Petition of Right.

2. The Commission of Excise, which issu'd *ult. Feb.* after the Summons to that Parliament. The Commissioners were commanded to raise Monies by Impositions or otherwise, as in their Judgments they should find convenient. The Causes therein express'd were That the Defence and Safety of King and People and of the King's Friends and Allies beyond Sea could admit no longer delay; and inevitable Necessity, wherein Form and Circumstances must rather be dispens'd with, than lose the Substance; and the Commissioners not to fail, as they tender'd the King's Honour and Kingdom's Safety. Here's *Salus Regni periclitabatur* again; but this Commission was declar'd by the Commons to be against Law, and contrary to the Petition of Right, cancel'd in his Majesty's presence, sent so cancel'd to their Lordships and from thence to the Commons to be view'd.

3. The third thing he offer'd, was the Addition

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Saving (desir'd to be added to the Petition of Right) of that Sovereign Power, wherewith his Majesty is trusted for the Protection, Safety and Happiness of his People; which upon Debate was twice rejected by the Commons: for that tho' it be true, if taken by it self, that the King is trusted with such a Sovereign Power, yet if added to the Petition of Right, it would have made the Petition of Right destructive to it self, and to have had this sense, That it is true, that by the King's ordinary Power no Aid, Tax, Tallage, &c. can be impos'd without Consent in Parliament, nor any Man imprison'd without due Process of Law, nor the Subjects Lives taken away by Martial Law; but the King may do all this by his Sovereign Power, wherewith he is trusted for the Protection, Safety and Happiness of the People. And their Lordships afterwards being satisfied by the Commons Reasons, consented to the leaving out of that Addition, and the Petition of Right pass'd without it.

He said, these were the things that weigh'd with the Commons; but these Precedents are quite contrary to the Opinions of the Judges, the Ship-writs, and the Judgment in the Exchequer. And the Honour and Jurisdiction of this great Judicatory, the Parliament, is concern'd herein: For to have their Judgments and Acts of Parliament overthrown by the Judges, this makes Parliaments to be nothing, sets up the Judges above them, and leaves us no hopes of Redress. This was not the practice of their Predecessors, who in private Causes, if difficult, consulted with this Oracle how to give Judgment; and Judgments in the King's Bench, which are *coram Rege*, are reverfable here by Writ of Error. In Holland the Sea lying higher than the Land, it's capital to cut the Banks; the Statute *de Tallagio*, and other old Laws, are the Sea-walls and Banks, which keep the Commons from the Inundation of the Prerogative: but these Pioneers have not only underminded these Banks, but level'd them with the ground. His Majesty at his Coronation bound himself by his Oath to execute Justice to his People, according to the



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the Laws, and takes an Oath of his Judges to execute that part of his Oath, who are thereby intrusted therewith; if therefore they act knowingly against Law, they do not only break their own Oaths, but as much as in them lies, blemish his Majesty with the odious Sin of Perjury. Sir Thomas Weyland Chief Justice of the Common Pleas in E. 1's time, for taking Bribes was attainted of Felony, his Lands and Goods forfeited, and himself banish'd. Sir William Thorpe Chief Justice of the King's Bench in E. 3's time, for receiving of five several Bribes, amounting in all to 1000*l.* was adjudg'd to be hang'd, and his Lands and Goods forfeited, *quia Sacramentum Domini Regis ergo Populum suum habuit ad custodiendum, & fregit quantum in ipso fuit.* There was in this Judgment a Declaration that it should not be drawn into example against any other Officers who should break their Oaths, but only those *qui habent leges Anglie ad custodiendum*: and this Judgment was by Parliament 25 E. 3. declar'd *nullo contradicente* to be legal. He said, Thorpe's Offence was selling of the Law by retail to five several Persons; but these Opinions are a Conveyance of the Law by wholesale and that not to but from the Subject. In that of Thorpe it was not an absolute Denial of Justice, but straitning only of the Channel, and a hazard of perverting Justice; for the Party that buys the Judgment, may have an honest Cause; But here they have not only perverted Justice, but have put themselves and their Successors (as much as in them lieth) into an Impossibility of doing us Justice again. That by colour of these Opinions above 700000 had been levy'd of the Subjects, which with what they had been forc'd to pay to Sheriffs, Bailiffs and others, amounts not to much less than a Million besides their infinite Vexation by Suits in Law, Attendance at the Council Board, taking them from their Employments to make Assessments and Collections, and Imprisonment of their Persons. The Egyptians in that sore Famine gave first their Money next their Cattel, then their Lands and Persons for Bread, and all became Pharaoh's; but by this

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*Regia* here is even a parting with our Bread it self, and we have nothing left, but by the Goodness and Mercy of the King: nor were we suffer'd to sell our selves, as the *Egyptians* did, but we were sold against our wills by those who were trusted with our preservation. If the Captain of a Castle surrender it only through Fear and Cowardice, yet this is Treason, as was adjudg'd in Parliament in *R. 12.* in the two Cases of *Grymes* and *Weston*, and in the Case of the Lord *Grey* for surrendering *Burwick* Castle to the Scots in *E. 3.*'s time. The Laws are our Forts and Bulwarks, and by these Opinions a Star is made of all our legal Defence. That which hath been preach'd is now adjudg'd, no *Magna* and *Tum* between King and People. The Law is now *Tamplam sine Numine*; our *Dilectores* are gone; and the Law doth not only not defend us, but is made an Instrument of taking all from us: Our Forts are held against us by those who should have held them for us, and the mouth of our own Cannon is turn'd upon our selves. For whensoever his Majesty or his Successors shall declare the whole Kingdom is in danger, then, when, and how the same is to be prevented, makes our Persons and all we have liable to bare Will and Pleasure. Here he disown'd all Reflection upon the King; said, the first Opinion of the Judges was procur'd and brought him by the Lord *Finch*, who likewise procur'd that Letter from his Majesty, which occasion'd the second Opinion; and that in the whole Carriage of the Business, the King left the Judges to their freedom. There having been so no Miscarriages in Government in the Minority of King *R. 2.* a Parliament was held *Anno 10.* of his Reign, wherein a Commission was awarded to several Peers and others, to order the King's Household, the Courts of Justice, the Revenues, and to do all other things for the good Government of the Realm; the Commission to endure for one year only, at the end whereof the King would be at age. Five Persons, the Archbishop of *York*, the Duke of *Ireland*, the Earl of *Suffolk*, Sir *Robert Tresilian* Chief Justice, and Sir *Nicholas Bramber*

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*Bramber* conspir'd to overthrow this Commission, upon pretence that it trench'd upon the Royal Power, and was derogatory to the Crown; and that the Royal Assent had been obtain'd by Force. They resolv'd likewise the Destruction of those who had procur'd this Commission; and *Blake* one of the King's Counsel being consulted with, gave his Opinion, it was Treason, and drew up an Indictment of Treason against the Commissioners and others who had been active in the procuring of it, to this effect: That they had traitorously conspir'd in the Parliament, to make this Commission by Authority of Parliament against the Regality of the King, to his Dishonour and Derogation of the Crown, and compell'd the King's Consent. *Uske* the Under-Sheriff of *Middlesex* had prepar'd fit Instruments for the Trial of such of the Parties to be indicted as were not Peers; for which he was afterwards executed. The five Plotters, to cover their Malice under colour of Law, advis'd the King before the Trial to demand the Opinions of some of the Judges, viz. the two Chief Justices, Chief Baron, and three others, with *Lockton* the King's Serjeant. *Blake*, the King's Counsel at Law, drew up the Querys, for which and the Indictment he was executed. The Judges were sent for to the King at *Nottingham-Castle*: The two main Querys were, 1. Whether the Commission was in derogation of the Crown? they answer'd, it was. 2. Whether the persuading and urging the King's Consent in Parliament thereto was Treason? they answer'd, it was. And to these Opinions the six Judges and *Lockton* subscrib'd: for which afterwards Judgment of High Treason was given in Parliament against all seven of them, for that they knew (so are some of the words of the Judgment) that this Commission was awarded in Parliament; and that they knew the Law, and that it was not Treason. Besides these seven, and *Blake* and *Uske*, the Parliament gave Judgment likewise against the other four Plotters, the Bishop of *Exeter*, Sir *Simon Burley*, and three other Knights, eighteen in all; the Chief Justice *Tresilian*, *Bramber*, *Burley*, three Knights more, *Blake*

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Blake and Vike, eight in number, were executed. The Archbishop, Duke of Ireland, and Earl of Suffolk fled: The rest were pardon'd their Lives, but banish'd, their Lands and Goods forfeited, and little Pensions allow'd them for their Lives; it was made Felony for any to procure their Pardons, and they to be dealt with as Traitors if they return'd. He observ'd, 1. This was adjudg'd Treason as well against the King's Person, as against the Commonwealth. 2. It was then declar'd, that the Parliament was not bound to proceed according to the Rules of the Common Law or of inferior Courts, but according to the course of Parliaments. 3. A Bill of Confirmation afterwards pass'd, to give their Lands from a Day past, and declaring this should be no Precedent to inferior Courts to adjudg the same Cases Treason. It is true these Judgments were revok'd in the Parliament 21 R. 2. but this last Parliament was held by force, the Knights of Parliament elected not by the Commons, but according to the King's pleasure; and those Lords only summon'd, who adher'd to the King's Party, as is declar'd in the Parliament-Roll of 1 H. 4. n. 21, 22. and n. 48. these Judgments of Revocation are declar'd to be erroneous, wicked and contrary to Right and Reason; and in the Parliament 1 H. 4. in print, these Attainders are confirm'd. He said, those Judges of R. 2. and ours disagree in these things: Those were brought into the King's presence, and violently drawn to deliver their Opinions for fear of Death and Torture; nay at their Trials they said, that in part Violence had been offer'd to their Persons: But in our case there was no outward Force. In their case it was *Actus unicus*, once done at Nottingham-Castle; and had they been put to it again, the rest perhaps might have repented as some of them did; for Belknap, Chief Justice of the Common Pleas, declar'd the same Day, That there remain'd nothing for him but a Horse, a Hurdle, and a Halter; and Fulthorp another of them declar'd his Repentance the next day: But in our case, a year after their Opinion in November 1635. they give it with Additions, and most of

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them declar'd it in their Circuits, and a year after that confirm'd it by the Judgment in the Exchequer. In that case there was only a Conspiracy, and the Commission not overthrown; but here Execution awarded upon the Judgment, Ship-monny deny'd to be any more debated, and several upon their *Habeas Corpus* kept in prison from Term to Term for Non-payment. In that of R. 2. it was the overthrowing but of one Act of Parliament, which was introductive of a new Law; but here the Endeavour was to blow up all Acts of Parliament at once, tho declaratory of the Common Law. There it was but to overthrow a temporary Act of Parliament, which was to continue only a year; here it was to make an eternal Devastation *toties quoties* his Majesty or his Successors should say the Kingdom is in danger: and some of them have declar'd upon the Bench, That this Prerogative is so inherent in the Crown, that it cannot be taken away by Act of Parliament. He said they both agreed in these two things, That what they did was against their Knowledge, and tended to the Overthrow of all Acts of Parliament and Parliamentary Proceedings. Queen Elizabeth, anno 29. had erected a new Office in the Common Pleas for the making of *Supersedeas* upon Exigents, grants it to Richard Cavendish, and sends to have him admitted: The Judges delay'd to do it, because the Prothonotaries and Phillizers claim'd the making of those Writs. The Queen sends a sharp Letter to them, commanding them to admit him; they still forbear. She sends a sharper Letter to them, to shew before the Lord Keeper and the Earl of Leicester the Reasons of their Refusal: accordingly they deliver'd their Reasons, because others claim'd the making of those Writs. The Queen sends a fourth peremptory Message for admitting him, with this Reason, That those who were put out, may prosecute their Right in her Courts of Justice: The Judges represented to her, that she had taken an Oath for the Execution of Justice according to Law; That it was against their Oaths to put any out of possession only upon her Command.

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tho the Right remain'd to him ; and told her the Punishment inflicted on their Predecessors for breach of their Oaths : after which they heard no more of it. These Judges therefore had Examples of both kinds before them, they might have chosen the good, and refus'd the bad.

20<sup>th</sup> Januar. 1640. It was resolv'd by the Lords *nemine contradicente*, That the Ship-writs, the extrajudicial Opinions of the Judges therein both first and last, the Judgment given in Mr. Hamden's Case, the Proceedings thereupon in the Exchequer Chamber, the extrajudicial Opinions enrol'd in the Exchequer Chamber, and in other Courts concerning Ship-mony, and all the Proceedings thereupon, are illegal, and contrary to the Laws and Statutes of this Realm, to the Rights and Properties of the Subject, to former Judgments in Parliament, and to the Petition of Right.

16<sup>th</sup> Februar. 1640. It was order'd by the Lords Spiritual and Temporal, That the Lord Keeper or Master of the Rolls, the two Chief Justices, Chief Baron, and Chief Clerk of the Star Chamber do bring into the Upper House the Record of the Judgment in the Exchequer in Mr. Hamden's Case concerning Ship-mony, and the Rolls in each Court wherein the extrajudicial Opinions of the Judges are enter'd ; That a Vacat be made there of those Records, and the Judgment of Parliament concerning the Illegality of the said Judgments and Opinions be annex'd thereunto ; That Copies thereof be deliver'd to the Judges, who are to publish it in their Circuits, and see it enrol'd there by the Clerks of Assizes ; and all Entries of the said Judgment or extrajudicial Opinions there to be vacated. The next day the said Records were brought into the Upper House, and vacated, and the Rolls raz'd cross with a Pen, and subscrib'd by the Clerk of the Parliament. Afterwards the Lords voted *nemine contradicente*, That the Opinions of the Judges touching Ship-mony, and the Judgment against Mr. Hamden, and all Proceedings thereupon, are against the Great Charter, and therefore void in Law ; and that Entries be made of the Vacats upon the several Rolls.

14 Car.

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*Judge Berkley impeach'd in Parliament.*

*W. Pierpoint Esq; his Speech to the Lords upon that occasion.*

*Wil. Pierpoint Esq; his Speech to the Lords upon that occasion.*

Sir Robert Berkley, one of the Justices of the King's-Bench, who had given his Judgment against Mr. Hamden, and was a most violent Assertor of Shipmony, was about the beginning of the said Long Parliament 1640. impeach'd by the House of Commons of High-Treason, which having so near a Connexion with what went before (tho somewhat also out of time) we have here set down the Articles of Impeachment transmitted to the Lords against him, on the delivery whereof at a Conference of both Houses William Pierpoint Esq; (a Member of the House of Commons) spake to this effect.

That he was commanded by the Commons to present to their Lordships the Articles against Sir Robert Berkley: The High-Treason is in the first Article, his Endeavor to subvert the fundamental Laws, and to introduce an Arbitrary and Tyrannical Government, which had been lately adjudg'd Treason in the Earl of Strafford's Case. The other Articles prove the first by his Opinions, Certificates, Judgments and denials of the benefit of the Laws; our Bodies, Lands and Goods are given up by him to Arbitrary Government: He hath had the advantages of Study and Education to know the Laws, Encouragement by Honours and Revenues to do well, and knoweth what Punishment hath been inflicted on unjust Judges: His Offences shew his great Ambition, and yet his great fear to displease the powerful. In comparison with his Crimes Bribery had been tolerable, for there Justice may be had for Money: In the most oppressive Designs, his Majesty's Pretences have ever been the good of his Subjects, but his is the Sin that persuaded him to such courses. The Writs to provide Ships to avoid imminent Danger, that could not stay forty days for a Parliament, and yet could stay for the Ships from September to March, this Judge hath published to be an inseparable Plower of the Crown, and we have liv'd to see this imminent Danger for five years together. The most slavish Eastern Nations if their Prince be unjust, have the liberty to hate him, but this Judge will have us only hate Laws as he hath interpreted them: He first persuades his Prince, that

in imminent danger his Subjects Goods are at his Will, and then tells him there is such danger when there is none: He makes his own Reason the Law, and will supply the Law if he thinks it defective. Courts of Reason and Conscience came from great and cunning Men, and will in time eat out our Laws and Liberties: unlimited Power must be in some to make and repeal Laws: Nature placeth this in common Consent; His Majesty, their Lordships and the Commons are thus met in Parliament. This Judg will not allow us our Knowledg or Reason; he lays a Grandjury-man in Irons for presenting an Innovation in the Church; we must know no more Divinity than what the great ones of the Clergy direct, nor more Law than what this Judg saith is so. Judges formerly (except such as were Examples of Punishment as well as of Injustice) in great and publick Concernments forbore Proceedings till the next Parliament. This Judg, tho he had as many such Causes before him as ever any had, never desir'd the Resolution of a Parliament; for by the ways he went he hoped never to have a Parliament. This Judg assisted in causing the Miseries we suffer'd in the Star-chamber, and at the Council-Table: But could he intend to make himself and his own Posterity Slaves? Was not all this through error of Judgment? No, but his Aim is apparent; for there are in all Ages some Men who will be Slaves to some few, that many may be Slaves to them. The unjust Judgments of this Judg were given openly in the face of the whole Kingdom. We have seen wicked great Men, who hated our Laws; yet not meeting with active Judges moulded to their purposes, they have dy'd, and the Realm flourish'd: But of late others less politick meeting with unjust Judges, as ill as they could wish for, the Kingdom fainted under the load of its Misery. If the designs of some would not have a Man to be at liberty, a Warrant from some Lords of the Council would soon have laid him in Prison and given no cause: had he mov'd this Judg to be discharg'd or bail'd, he could have obtained neither; and if they would not have him live, a Goaler might have been easily brought, by unwhole-  
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*Ann. 1638.* from Lodging and ill Diet, to take his Prisoner's Life away. Had a great Man desir'd the Estate of another, the breach of a Proclamation might have been charg'd against him in Star chamber; and if he had answer'd, and prov'd his Answer by Testimonies, and it had been refer'd to this Judge, he would have expung'd the one, and suppress'd the other: Then follow'd Fines to the value of his Estate, then Imprisonment till such Fines were paid. Their Lordships had heard what this Judge did to the Soapboilers: The Countryman thought himself assur'd of his Property and Liberty, and that his Goods could not be taken from him without his Consent: He knew the ordinary Payments, and for extraordinary he hoped to chuse such Knights of the Shire, or Burgesses as should not grant them without cause: He hath heard the Opinions and Judgments of this Judge, hath seen his Goods taken from him without his or his Knights of the Shire or Burgesses Consent or Advice: This hath made him think how to preserve what is left by selling all his Goods, and hiding the Mony: But then he remembers this Judge, how he shall be carried to Prison, and remain there if he pay not what others please to assess him. He desir'd therefore from the Commons that the Proceedings against this Judge Sir Rob. Berkley may be put into a speedy way of Trial.

Articles of  
Impeachment  
against  
Sir Robert  
Berkley.

The Articles of Impeachment of High-Treason and other great Misdemeanors, transmitted by the Commons to the Lords against Judge Berkley, were to this effect: 1. That Sir Robert Berkley, being one of the Justices of the King's Bench, had endeavour'd to subvert the fundamental Laws and establish'd Government, and to introduce an Arbitrary and Tyrannical Government against Law, which he hath declar'd by his Words, Opinions, Judgments, Practices and Actions appearing in the Articles ensuing. 2. That some ill-affected Persons endeavouring to bring an illegal Charge upon the Subject, and surmising that the Price of Corn might be rated by the Statute of 25 H. 8. for rating of Victuals, whereby great Gain might arise to his Majesty by Licences and Dispensations for selling Corn at other Prices: And the Judges being

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by his Majesty requir'd their Opinions, whether Corn were Victuals within that Statute, the said Sir Robert Berkley deliver'd his Opinion, That it was; which Opinion was contrary to Law, to the plain meaning of the Statute, and to his own Knowledge. 3. That an Information being prefer'd in the Star-chamber against John Overman, and fifteen other Soapmakers for several pretended Offences, contrary to divers Letters Patents and Proclamations touching the making and uttering of Soap, &c. the Defendants pleaded, and demurr'd to part, and answer'd to the other part. The Plea and Demurrer being overrul'd, and the Defendants order'd to answer, with a Saving of the advantages of their Plea and Demurrer at the hearing, the Defendants put in their Answers, and set forth several Acts of Parliament, Letters Patents, Charters, Customs, and Acts of Common Council of London, &c. and pleaded, Not guilty. The said Sir R. Berkley upon an Order of Reference to him and others, 30 Martii 8 Car. to consider of the Impertinency of the Answers, certified, That the whole Answers, except the four first Words and last ten Lines, should be expung'd, leaving no more Substance than the Plea of Not guilty. And 2 May 8 Car. upon another Reference in the same Cause, certified, That 39 of the Interrogatories and the Depositions thereon taken on the Defendants parts should be expunged and suppressed, which was done accordingly: That the said Certificates were contrary to Law and Justice, and the Defendants advantages sav'd to them were lost, the Defendants imprison'd, disabled from using their Trades, and great Fines impos'd on them, and estreated into the Exchequer without mitigation. 4, 5. That he subscribed the two extrajudicial Opinions herein before mention'd about Shipmony. 6. That he deliver'd his Opinion in the Exchequer Chamber against John Hamden Esq; in the case of Shipmony, That he was chargeable with the Mony then in question. 7. That being one of the Justices of Assize at York in Lent 1636. he deliver'd in his Charge to the Grand-Jury, That it was an inseparable Flower of the Crown, for the King to command as well the Inland

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as Maritime Counties to find Ships for the defence of the Kingdom; that it was the Judgment of all his Brethren witnessed by their Subscriptions: And if any of them that had subscribed was of a contrary Judgment, it was base and unworthy to give his Hand contrary to his Heart, and wish'd his Hand might rot off from his Arm that did so, when he knew Mr. Justice *Hutton* and Mr. Justice *Crook* who had subscribed were of a contrary Opinion, and he was present when they were persuaded to subscribe, which they did for Conformity only, because the major number had subscribed: He then also said, That in some cases the Judges were above an Act of Parliament, on purpose to terrify those who should refuse to pay Shipmony. 8. *Richard Chambers* Merchant, having brought his Action against Sir *Edward Bromfield* for imprisoning him for refusing to pay Shipmony when Sir *Edward* was Lord-Mayor of London, and *Bromfield* making a special Justification, Sir *Robert Berkley* sitting in the Court of King's Bench last Trinity Term, upon debate of the said Case said, There was a Rule of Law, and a Rule of Government; and many things that might not be done by the Rule of Law, might be done by the Rule of Government; and would not suffer *Chambers* his Counsel to argue the Illegality of Shipmony. 9. Mr. Serjeant *Atkins* having given it in Charge to the Grand-Jury at the Sessions for the County of *Hertford*, 7 January 1638. That they were bound by their Oaths to present all Innovations concerning Church Matters; the Grand Jury presented the removal of the Communion-Table in *All-Saints Church* in *Hertford* out of the place where it antiently and usually stood, and setting it Altarways, as an Innovation in Church Matters: But Sir *Robert Berkley* being upon the Bench when the Presentment was offer'd, and understanding it was *Henry Brown* one of the Grand Jury who gave them the Information, he ask'd him how he durst meddle with Church Matters? and *Brown* replying, it was given them in charge, he requir'd of him Sureties for his good Behaviour, threatned to fine him, refus'd Bail tho offer'd, committed him to Prison, where he

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lay in Irons till next morning; said he knew no Law for such Presentment, told *Brown* he had sinned therein, compell'd the Grand-Jury to say they were sorry for what they had done, and *Brown* to tear the Presentment: And of this he afterwards boasted to the Magistrates of *St. Albans*, when they desir'd his Opinion on several Indictments against *Brown* and *Smith*, two Parsons or Ministers there, at the Quarter Sessions held at the said Town 24 June 1639. for removal of the Communion Table, and not administering the Sacrament according to Law. And *Ingram* and *Carter* having prefer'd several Indictments at the Assizes at *Norwich* in 1633, against *Matthew Brook* Parson of *Yarmouth* for refusing to administer the Sacrament to them, because they would not receive Tickets with their Surnames before their Christian Names: And this upon the Trial appearing to Sir *Robert Berkley* then one of the Judges of Assize, to be the only cause of the Parson's refusal; Sir *Robert Berkley* overrul'd the matter of Law, and caus'd the Jury to find for *Brook*, bound *Ingram* to the good Behaviour, and made him pay *Brook* Costs for indicting him: And *Carter* not expecting the Trial would have come on at the same Assizes, he prefer'd his Indictment, but being absent, the said Judge caus'd a *Vacat* to be enter'd upon the said Indictment, *quia non sufficiens in lege*, and order'd an Attachment against *Carter*. 10. That *Alexander Jennings* Prisoner in the Fleet, being in *Trinity* Term 1637. brought by *Habeas Corpus* to the King's Bench Bar, and the Return being that he was committed by two several Warrants from the Council, dated the 5th of *November* 1636. the one without any cause express'd, the other for not paying Messengers Fees, and until he should bring a Certificate that he had paid his Shipmony in the County of *Bucks*, Sir *Robert Berkley* refus'd to discharge or bail him: In *Michaelmas* Term upon another *Habeas Corpus*, and the same Return, he again remitted him. In *Trinity* Term following upon another *Habeas Corpus*, and the same Return, with this addition of a new Commitment of the 4th of *May*, suggesting, that the said *Jennings* had us'd divers scandalous words in derogation



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tion of his Majesty's Government, he was again remitted. That he defer'd to grant Writs of *Habeas Corpus* for *William Pargiter* and *Samuel Danvers* Esqs; Prisoners in the *Gatehouse* and *Fleet*; and tho the same were granted, and they brought to the Bar of the said Court *June* 18th last, and the Returns being only Warrants of the Council without any cause express'd, yet *Sir Robert Berkley* defer'd to bail them, and gave a Rule for a new Return to be receiv'd, which was made 25 *June* to this effect: That whereas the *Scots* intended to shake off their Obedience and invade the Kingdom; and his Majesty, according to the Laws, and the constant custom of his Predecessors, had granted forth Commissions under the Great Seal, to array and arm his Subjects of able Bodies and able Estates, and to assess those not of able Bodies but of able Estates; and the Earl of *Exeter* had in the County of *Northampton* assessed *William Pargiter* five Shillings, being of able Estate, but not of Body for that Service, which he hath refused to pay, and by his ill Example misled others, and (as they have just cause to believe) hath practis'd to seduce others, which they purpos'd speedily further to enquire of: The Keeper of the Prison was therefore requir'd to take him into Custody, until further order of the Council, or until he should be duly deliver'd by Law. And the like Return being made for *Samuel Danvers*, *Sir Robert Berkley* remitted both of them, altho they and *Jennings* wereailable by Law, and sufficient Bail was offer'd for all of them; and to several he deny'd Writs of *Habeas Corpus*, and others he refus'd to bail thoailable. 11. That for several Terms he deny'd to grant a Prohibition for *Collar* to the Ecclesiastical Court at *Normich*, in a Cause there between *Samuel Booby* Clerk, and the said *Collar* for Tithes, for Rents and Houses, which was determinable by the Common Law; and to several others deny'd Prohibitions. But to return to the present Year.

Passengers  
prohibited  
to go to  
New Eng-

*April* 6. His Majesty and Council taking into Consideration the frequent resort to *New-England* Persons disaffected to the establish'd Religion and Civil Government, altho for some reasons he had

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taken off the late Restraint from Merchants, Passengers and Owners, and given them liberty to pursue their Voyage thither; yet knowing the factious Disposition of the People in that Plantation, and how unworthy they are of any Support or Countenance from hence, His Majesty order'd a Proclamation to be drawn up, prohibiting any Ship to be set forth with Passengers for *New-England*, without Licence from the Lords of the Council appointed for Foreign Plantations.

*April 15.* The Petition of the Parsons, Vicars and Ministers Curats of the sixteen adjacent Parishes to *London*, in of the Pa-  
*Westminster, Middlesex, Southwark and Surrey*, was rishes ad-  
read, complaining of their small Maintenance, and jacent to  
praying redress therein: And his Majesty being wil- London  
ling to determine the matter with the Consent of the petition for  
Parties concern'd, the Petitioners readily assented Maintenance.  
thereunto; but the Parishioners taking time to consult  
with their respective Vestries, there were some Per-  
sons oppos'd the Submission, particularly one *George*  
*Winder* at *St. Giles* in the Fields, who happen'd to  
be a Messenger of his Majesty's Chamber. The Lord  
Chamberlain was order'd by the Council to take him  
to task and punish him; and the matter was after-  
wards settl'd to the satisfaction of the Petitioners.

In *May* the Agreement between the Parishes of *The Coun-*  
*Christ-Church* and *St. Gregory's* (whose Church was cil's Order  
pull'd down to make room for *St. Paul's*) for the concerning  
placing those of *St. Gregory's* in the West end of the Parishi-  
*Christ-Church*, was confirm'd by the Council: But oners of  
this was to last no longer than *Midsummer 1641.* *St. Gre-*  
and then the Men of *St. Gregory's* were to seek out gory's.  
elsewhere; nor might they in the mean time bury any  
more than ten of their dead in *Christ-Church* in any  
one year.

Before the Judges went their Circuits, the Lord *Ld Keep-*  
Keeper spake to them in the Star-chamber to this er's Speech  
effect: He said, the Service and Performance of their to the  
Circuits was look'd upon by some as a matter of Judges.  
course, but they would soon change their Minds if  
they should want it a while, for thereby comes an in-  
finite ease to the Subjects both for Travel and Charge,

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to have Justice distributed to them even at their own doors, the Justices of Assize succeeding the Justices and being more suitable to the Government of this Kingdom. He first recommended to them Religion: It was rumor'd that Recusants encreas'd; if so, and yet there is so little in the King's Treasure, there is a fault so few are convicted, and they the Judges cannot be blameless. This is to be rather consider'd, for that some do not stick to say our Bishops and Prelates are inwardly affected that way, nay that the King in heart is a Papist, which is a horrible and false Lye, within the Statute of 2 R. 2. And for such a Scandal against the King, an exemplary piece of Justice was this Term done in this Court upon one *Pickering* a *Shropshire* Man; which he would have them make known in their Circuits. Next he put them in mind of discovering and apprehending Felons and other capital Offenders, and of the King's Orders printed eight years before about Vagabonds, Houses of Correction, Alehouses, binding of Apprentices, and setting to work the Poor; of these things the Sheriff and Justices of Peace were to give an account to the Judges, and they to the Council-Board but they had fail'd in what was expected from them. He took notice of the general Complaint of the enhancing the Rates and Prices of Corn, Hay, Cattel, Victuals, &c. which in a great measure is occasion'd by Ingrossers and Foretallers; the Reformation whereof he recommended to the Justices of Assize, Justices of Peace, and Mayors, &c. of Corporations. He much insisted upon the former Admonition which had been given them, to take care that equal Rates be made throout their Circuits, whether for levying of Men, providing of Munition, &c. that the Rich may not ease themselves upon the Poor, and so many Complaints may not come to the Council-Board of unequal Taxations.

Clergymen  
prohibited  
the Summer  
Islands  
without  
licence.

August 19. The Council issu'd an Order to the Lord Admiral not to suffer any Clergyman to go to the *Summer Islands* (whither several unconformable Ministers did frequently transport themselves, to nourish their factious and schismatical Humors) without

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the Approbation of the Archbishop of *Canterbury* and the Bishop of *London*: And that he cause such as were already gone thither without such Approbation, to be remanded back.

About this time his Majesty took care for the furnishing *Hull* and *Newcastle* with Arms, Pouder and Munition.

*Hull and Newcastle furnish'd with Arms.*

*October* the last, *Mary de Medicis* the Queen Mother of *France* came to *London*, and so to *St. James's*. She was look'd on here as a Meteor of ill signification, having been often observ'd to bring the Sword or Pestilence where she came: Her restless Spirit had imbroil'd *France*, which became too hot for her; from thence in 1631. she was driven to *Brussels*, where the Cardinal *Infanta* treated her honorably; but she was there so hunted and pursu'd by the Imprecations and Curfes of the People, to the indangering her Person, that in 1637. she betook her self to the Prince of *Orange*: Long she staid not there, but upon an Invitation from the Queen her Daughter resorted hither.

*The Queen Mother of France comes to England.*

*Novemb. 12.* Upon motion of the Lord Viscount *Wentworth* Deputy of *Ireland*, it was order'd by his Majesty in Council, That on Tuesday seven night the Charge sent by the Lord Deputy and Council there against the Lord Chancellor of *Ireland*, and the Lord Chancellor's Appeal against a Decree there made by the Lord Deputy and Council, and the Review thereof, should be heard at the Council-Chamber in *Whitehall*, where the Particulars then first insisted on would be, the Lord Chancellor's delivering the negative Voice of the Nobility against the Contribution for the Army; the Article against him in the Cause between *Mary Fitzgerald* and *John Fitzgerald*; his Misdemeanors in *Jacob's* Cause, and in the Cause between *Dr. Medcalf* and *George Harpool*.

*A Hearing between the Ld Deputy and Council, and the Ld Chancellor of Ireland.*

It appearing by the Accounts of *Sir William Russell* and *Sir Henry Vane*, Treasurers of the Navy, that they had receiv'd no more of the several Sheriffs in *England* and *Wales* for Shipmony for the year 1637. than the Sum of 162550 l. or thereabouts, Orders

*Accounts of the Shipmony for the year 1637.*

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Order of  
Council for  
levying the  
Arrears.

ral Sheriffs of that year, and the several Sheriffs of this present year 1638. commanding them of the last year to make speedy payment of the Arrears of that year to Sir *William Ruffel*; and for what remain'd unassess'd, unlevy'd or uncollected, commanding the Sheriffs of this present year to give Warrant and Authority to the Sheriffs of the last year for the assessing, levying and collecting thereof, and to such others as the Sheriffs for the last year shall nominate to be employ'd in that Service.

Knight-  
hood Money  
remitted.

*William Coke Esq*; a Justice of Peace for the County of *Nottingham*, having underwritten 25 *l.* for his Composition for Knighthood, the same was by an Order of the Council-Board, dated *December 5.* (in consideration of the Services he had done his Majesty) reduc'd to 5 *l.*

To find  
Horse and  
Arms.

*Decemb. 16.* His Majesty, considering that Horse were a most important part of the Strength of the Kingdom, declar'd in Council, That every Person having Lands of Inheritance of the clear yearly Value of 200 *l. per ann.* or 300 *l. per ann.* or other Estate equivalent thereunto, should be chargeable with a Horse, viz. 200 *l. per ann.* with a Light-horse, and 300 *l. per ann.* with a Lance, at the discretion of the Lord Lieutenant: And that no Man's purse should be spar'd in these Services, only his own Servants and the Ministers and Officers of his Courts of Justice, and others that pretend Privilege in respect of their Places and Offices should be exempted in their Persons, but none of them in their Lands or Estates.

Affairs of  
Scotland.

We shall now take a step into *Scotland*, and give an account of the Transaction of Affairs in that Kingdom since the end of *December*, at which time the *Scots* conclude the old year. His Majesty sent the Earl of *Roxborough* Lord Privy Seal (then at the Court in *England*) to *Scotland*, with Instructions to the Council who were to meet at *Dalkeith*, to consider of the Disorders of the Kingdom. The Council remov'd the Session from *Linlithgow* to *Sterling*, that the Multitudes might disperse, which they were to do under pain of Treason; notwithstanding which they came in great numbers to *Sterling*, whither the

Earl of Traquair Lord Treasurer of that Kingdom <sup>14 Car.</sup>  
(then newly return'd from the King) and the reit of  
the Council came, and caus'd a Proclamation to be  
publish'd, dated 19 Februar. 1637. to this effect :

That his Majesty had ordain'd a Book of Common <sup>Proclama-</sup>  
Prayer for the Use and Edification of his Subjects there, <sup>tion there</sup>  
wherein there is nothing but what was approv'd by him <sup>about the</sup>  
before publish'd, and he assur'd them the Book would <sup>Liturgy.</sup>  
be a ready means to maintain the true Religion and to  
beat down Superstition : but having consider'd some  
Petitions and Declarations given in to his Council  
against the said Book and the late Canons, he finds  
his Royal Authority much injur'd, and conceives the  
Nobility, Gentry, Burroughs, Ministers, &c. who  
met to contrive and subscribe the same, deserve his  
high Censure in their Persons and Fortunes ; but be-  
lieving they did it out of a preposterous Zeal, and  
not out of any Disloyalty, he was pleas'd to dis-  
pense therewith to such as should retire themselves,  
and commands his Sheriffs, &c. to discharge all Con-  
vocations or Meetings under pain of Treason, and to  
inhibit all Persons from repairing to *Sterling*, or any  
other Burgh where the Council and Session sit, till  
they declare to his Council their cause of coming, and  
procure their Warrant for the same : And that they  
command all who are not Inhabitants in *Sterling*,  
nor of the Privy Council or Session, to depart thence  
within six hours after publication hereof, and not  
return without such Warrant under pain of Treason :  
and declares he will not stop his ears to their Petitions,  
so they be not prejudicial to his Royal Authority.

Which Proclamation met the same day with the  
Protestation following from the Noblemen, Barons,  
Ministers and Burghers appointed to attend his Ma- <sup>The Scots</sup>  
Jesty's Answer to their Petition and Complaint, and <sup>Protesta-</sup>  
to prefer new Grievances. They begun, <sup>tion there-</sup>  
*for God and the King* : They said they presented two Supplica-  
tions to their Lordships, and a Bill relative to the  
former, remonstrating their Exceptions against the  
Service-Book and Book of Canons, and against the  
Archbishops and Bishops, as the Contrivers and



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Maintainers thereof, against their sitting as their Judges till the Cause be decided, and to be freed of the High Commission and other Innovations, and that their Grievances may be redress'd: That *December* 19. they gave in a Declinator against the Archbishops and Bishops as Parties, who are therefore not fit to be Judges: To which their Lordships (the Council) by an Act at *Dalkeith* answer'd, they would present their Petition to his Majesty, without prejudice in the mean time to their Declinator. And yet they have heard that upon some Directions from his Majesty the Archbishops and Bishops are admitted to the consulting and judging about their Supplications and his Majesty's Answer, contrary to their Declinator, their Lordships Acts, their Religion, Laws and Supplications: They are therefore forc'd to take Instruments in Notaries hands of their Lordships Refusal to admit their Declinator, or to remove those that are Parties against them; and to protest, 1. That without offence to their Lordships they may have immediate recourse to their Sovereign, to present their Grievances. 2. That the Archbishops and Bishops, the Parties complain'd of, cannot be reputed lawful Judges, to sit in any Judicatory Civil or Ecclesiastical upon any of the Suppliants, until upon Trial they have purg'd themselves of the Crimes laid to their charge. 3. They protest against all Acts and Proclamations in their prejudice, pass'd in the presence of the Archbishops and Bishops. 4. They protest that neither they nor any that join with them in their Supplications against these Innovations, shall incur any danger in Life, Lands, or other Pains, for not observing such Acts, Books, Canons, Rites, Judicatures, or Proclamations introduc'd without Acts of Parliament, or of General Assembly, or the Statutes of the Kingdom; but that every one may use themselves in the matters of Religion and Worship of God, according to the Word of God, the Constitutions of that Church, and his Majesty's Declaration of *December* 9. last. 5. That if any Inconvenience fall out upon the pressing any of the Innovations

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tions or Evils complain'd of, it shall not be imputed to them. 6. They protested that their Requests proceeded from Conscience, with a due respect to his Majesty's Honor; and tended to no other end, but the Preservation of the Reform'd Religion, their Laws and Liberties, and the Satisfaction of their humble Desires, according to his Majesty's accusom'd Goodness and Justice, from whence they hope for Redress.

After this Protestation they erected a great number of Tables (as they call'd them) in *Edinburgh*, *rested in Edinburgh.* four principal, one of the Nobility, another of the Gentry, a third of the Burroughs, and a fourth of the Ministers; and the Gentry had many subordinate Tables, according to their several Shires. These Tables prepar'd matters for the General Table, which consisted of Commissioners chosen from the four Tables: Then they proceeded in framing and subscribing their Covenant, concerning which *Dr. Belcanqual*, the reputed Penman of the King's Declaration, saith, The first Dung which from these Stables was thrown upon the face of Authority and Government, was that leud Covenant and seditious Band annex'd unto it.

This Covenant and Band were intituled, A Confession of Faith of the Kirk of *Scotland*, subscrib'd at first by the King and his Household in 1580. afterwards by all Ranks in 1581. and again in 1590. with a general Band for Maintenance of the true Religion and the King's Person; and now subscrib'd in the year 1638. by the Noblemen, Barons, Gentlemen, Burroughs, Ministers and Commons under-subscribing; and were to the effect following, viz. That after long and due Examination they were resolv'd of the Truth, and do believe, confess and affirm, that this is the true Christian Faith and Religion, which is reveal'd by the preaching of the Evangel, and is receiv'd by several Kirks and Realms, but chiefly by the Kirk of *Scotland*, the King and the three Estates: to which they agree, as unto God's undoubted Truth, grounded upon his written Word; and therefore they abhor and detest all contrary Religion and Doctrine, but chiefly Popery, particularly

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the usurp'd Authority of that Roman Antichrist, his Laws against our Christian Liberty in indifferent things, his corrupt Doctrine against the Sufficiency of the Scriptures, the Perfection of the Law, the Office of Christ, concerning original Sin, our Justification, Sanctification, and Obedience to the Law; his five bastard Sacraments, his Ceremonies and false Doctrines added to the true ones; his absolute Necessity of Baptism, his Transubstantiation, Dispensations of Oaths and Marriages; his devilish Mass, blasphemous Priesthood, profane Sacrifice for the Quick and Dead, Canonization of Men, calling upon Angels and Saints, worshipping Images, Relicks and Crosses, dedicating Kirks, Altars, Days and Vows to Creatures; Purgatory, praying for the Dead, praying in a strange Tongue, Processions, blasphemous Litany, Mediators, Orders, auricular Confession, uncertain Repentance, doubtful Faith, Satisfaction of men for their Sins, *Opus Operatum*, Supererogation, Merits, Pardons, Pilgrimages, Holy Water, baptizing of Bells, conjuring of Spirits, crossing, anointing, hallowing Creatures; his worldly Monarchy, wicked Hierarchy, three solemn Vows, his Shavelings, his cruel Decrees at *Trent*, vain Allegories, Rites, Signs and Traditions. And they promise and swear by the great Name of the Lord their God, That they will continue in the Doctrine and Discipline of this Kirk, and defend the same all the days of their Lives, under the pains contain'd in the Law, and danger of Body and Soul in the day of God's fearful Judgment. And seeing many had heretofore promis'd, sworn, subscrib'd and us'd the Sacraments in the Kirk deceitfully, and when time serv'd, relying upon the Pope's Dispensation, have become Enemies and Persecuters of the true Religion; they therefore to take away all suspicion of Hypocrisy do protest, That their Minds and Hearts do fully agree with this their Confession, Promise, Oath and Subscription. And because they perceive the Quietness and Stability of their Religion and Kirk doth depend upon the King's Safety and good Behaviour, as upon a comfortable Instrument for the main-

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maintenance of this Kirk and ministration of Justice, they protest to defend his Person and Authority, with their Goods, Bodies and Lives, in the defence of Christ's Evangel, Liberties of their Country, ministration of Justice, and punishment of Iniquity, against all Enemies whatsoever. They then recited several Acts of Parliament of King *James VI.* abrogating all Laws, Statutes, Acts, Constitutions, Canons and Ordinances made in prejudice of the true Religion and Professors thereof, and of the true Kirk-Discipline, Jurisdiction and Freedom thereof, or in favor of Idolatry, Superstition, or the Papistical Kirk; for suppressing of Popery and Superstition, for punishing Papists and Priests, as Adversaries to God's true Religion, common Enemies to Christian Government, Rebels to the King's Authority, and Idolaters; abolishing the Pope's Authority and Jurisdiction, punishing the Maintainers thereof, condemning the Pope's and all other erroneous Doctrine, punishing the Authors or Spreaders of Books or Writings of that nature, condemning the Popish Baptism and Idolatry of the Mass, punishing the Sayers, Hearers or Concealers of Mass, and the Maintainers and Receivers of Priests, Jesuits and trafficking Papists, condemning the Monuments and Dregs of by-gone Idolatry, as going to Crosses, observing the Festival Days of Saints, and such other superstitions and popish Rites; and the Users of them for the second fault to be punish'd as Idolaters. They recited likewise several other Acts of King *James VI.* for maintenance of true Religion in the Doctrine and Sacraments of the true Church, and the Liberty thereof in her national synodal Assemblies, Presbyteries, Sessions, Policy, Discipline and Jurisdiction; declaring the Ministers and People in that Realm then professing Christ, and communicating in the Sacraments, to be the true Kirk of Christ within that Realm: and do specify the Gainayers of the Word receiv'd and approv'd, as the Heads of the Confession of Faith profess'd in Parliament in 1560. with the Refusers of the Holy Sacraments as then ministred, to be no Members of the said Kirk; and that there is no other

Ann. 1638. other face of Kirk or of Religion within that Realm : That the Magistrates are to punish the Contraveners, and the King's Licences in hindrance of the Execution of the Laws against Papists, &c. are declar'd void ; That none shall be reputed loyal and faithful Subjects, but such as profess the true Religion, and that all who make defection and give their Confession of Faith a-new, shall promise to maintain the King's Authority, and assist and maintain the Preachers and Professors of Christ's Religion against all that have set forward the cruel Decrees of *Trent* ; and all are bound to resist all treasonable Uproars and Hostilities against Religion, the King and the Professors : That by the Commission about the Union of *Scotland* and *England*, in the 17 Parl. K. *James VI.* it is declar'd, what Confusion would ensue, if Laws or Liberties should be innovated or infring'd ; and for the preservation thereof, and of the true Religion, the Kings of this Realm are by several Statutes of King *James VI.* and 4 Act of King *Charles*, to swear to maintain the true Religion, the Preaching of the Word, and Ministration of the Sacraments according to the Confession of Faith, to abolish all false Religion, to rule their People according to the Will of God reveal'd in his Word, and according to the Laws and Constitutions of the Realm, no ways repugnant to the other, to procure to their power Peace to Kirk and People, and to root out all Hereticks and Enemies of the true Worship, who shall be convicted by the true Kirk ; which Oath K. *Charles* took at his Coronation in *Edinburgh* 1633. Therefore in obedience to the Commands of God, conform to the practice of the Godly in former times, and of their religious Progenitors, which was warranted by Act of Council, commanding a general Band to be made and subscribed by his Majesty's Subjects for defending the true Religion as then reform'd, and as express'd in this Confession of Faith, and in a former large Confession establish'd by sundry Acts of General Assemblies and of Parliament, and for maintaining the King's Majesty, his Person and Estates ; they being convinc'd, that the present and succeeding Genera-

tion

tions in this Land are bound to keep the aforeſaid National Oath and Subscription inviolable, and conſidering the Danger of the Reform'd Religion, the King's Honour, and the publick Peace, by the Innovations and Evils mention'd in their late Supplications, Complaints and Proteſtations, Do reſolve to adhere to and defend the true Religion, and forbear to practice the Innovations introduc'd in God's Worſhip, or to approve the Corruptions of the publick Government of the Kirk, or Civil Places and Power of Kirkmen, till they be try'd and allow'd in free Aſſemblies and in Parliament. And becauſe the ſaid Innovations and Evils have no warrant from the Word of God, are contrary to the ſaid Confeſſions, to the intent of their bleſſed Reformers, and to the ſaid Acts of Parliament, and tend to the re-eſta bliſhing the Popiſh Religion, and the Subverſion of the Reform'd, and of their Liberties, Laws and Eſtates: They declare, that the aforeſaid Confeſſions are to be underſtood of the aforeſaid Innovations and Evils, as if they had been therein expreſs'd, and that they are oblig'd to deteſt and abhor them among other Heads of Popery; and do promiſe and ſwear to continue in and defend the aforeſaid Religion, and reſiſt the contrary Errors and Corruptions, to defend the King, his Perſon and Authority, in defence of Religion, Liberties and Laws; and mutually to defend and aſſiſt each other in the ſame courſe, with their Bodies, Means and whole Power, againſt all perſons whatſoever; and will not ſuffer themſelves to be divided or withdrawn by any Allurement or Terror from this bleſſed and loyal Conjunction; nor do they fear the foul Aſperſions of Rebellion, Combination, &c. And they promiſe to keep themſelves within the Bounds of Chriſtian Liberty, and to be Examples to others of Godlineſs, Soberneſs and Righteouſneſs. And that this is their Reſolution, they call God to witneſs, as they ſhall answer to Jeſus Chriſt in the great Day, and under pain of God's everlaſting Wrath, of Infamy, and of loſs of all Honour and Reſpect in this World. And to this they all ſubſcrib'd their Hands,

This



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Sworn and  
subscrib'd.

This Covenant so took, as it was presently sworn first at *Edinburgh* in *February* 1637. and then sent every where throughout the Country, and subscrib'd there. It was observ'd in the King's Declaration, p. 7. That the Band to the former Confession was in defence of the King's Authority and Person, in defence of the Gospel of Christ and Liberties of the Kingdom, &c. But to this Covenant they have added a mutual Defence of one another against all Persons, not excepting the King himself; neither (saith the Declaration) was the King's Consent to this their new Covenant ever granted, nor once ask'd.

The Council  
meet at  
Sterling.

The Proclamation dated *Febr.* 19. and publish'd at *Sterling*, giving no satisfaction, but meeting with a Protestation from the Tables, who continu'd to sit; the Council appointed a solemn Meeting at *Sterling* *March* 1. that they might send their Advice to Court: But the Lord Chancellor made his Excuse, and the rest of the Bishops declin'd to come, except the Bishop of *Brechin*. Nevertheless the Council went on, and after four days debate dispatch'd *Sir John Hamilton* the Justice Clerk to the King with Instructions to this effect:

They send  
Sir John  
Hamilton  
to the King.

His In-  
structions.

1. He was to receive from the Clerk of the Council all the Acts pass'd since their Meeting on *March* 1. instant. 2. He was to represent to his Majesty, that a solemn Meeting of Council being, with the Advice of the Lord Chancellor, and Lords of the Clergy remaining at *Edinburgh*, appointed to be kept at *Sterling*, they assuring them they would be there; yet the Lord Chancellor sent his Excuse, and none of the other Bishops came, except *Brechin*, who staid with them three days, but departed before the Conclusion. 3. That after they had resolv'd upon a Letter to his Majesty, they sent it to the Lord Chancellor to be sign'd by himself and the Lords of the Clergy near him, and particularly the Bishop of *Brechin*, who was present at their Consultations; or if his Lordship could find any way more convenient for his Majesty's Honor and the Peace of the Country, they desir'd he would by Letter acquaint them with

with it, that the Council might be convened about  
 it. 4. That he acquaint his Majesty, the Council unanim-  
 ously find, that the Causes of the general Com-  
 bustions are the Fears of the Innovations in Religi-  
 on and Discipline, by the Introduction of the Service-  
 Book, Book of Canons, and the High Commission.  
 5. That seeing the Subjects offer, on peril of their  
 Lives, to prove that they contain divers points con-  
 trary to the Religion profess'd and the Laws of the  
 Kingdom, his Majesty be mov'd to declare, That  
 he will take trial of his Subjects Grievances in his  
 own time and in his own way, according to the  
 Laws, and in the mean time will not urge his Sub-  
 jects therewith. 6. Which if his Majesty approve  
 of, they submit it to him, whether he will send for  
 or allow to be sent to him some of their number, to  
 consult with about the time and way of doing it.  
 7. But if his Majesty (which God forbid) dislike of  
 what they offer, then that he will not determine  
 upon any other Course, till some of his Council be  
 heard to give the Reasons of their Opinions; and that  
 he will call for his Informers, with some of his Coun-  
 cil, that the matter be heard in his presence. 8. He  
 shall shew his Majesty, that Proclamations having  
 been already made and publish'd to dissipate and dis-  
 charge these unlawful Gatherings and Meetings, his  
 Council can do no more, till his Majesty's Plea-  
 sure be return'd to this their humble Remonstrance.

These Instructions were sign'd by seventeen Tem-  
 poral Lords, and others of the Privy Council of  
 Scotland, besides five Bishops, viz. *St. Andrews, E-*  
*dinburgh, Dumblain, Galloway and Brechin,* and  
 were seconded by a Letter to the King, sign'd by the  
 Earls of *Traquair and Roxborough,* to this effect:  
 They refer the miserable Estate of the Kingdom to  
 the Relation of this Gentleman, *Sir John Hamilton*:  
 They represent withal, that since the last Proclama-  
 tion, the fear of Innovations in Religion is so ap-  
 prehended by all sorts, that nothing is to be seen  
 there but a general Combustion, and a strengthening  
 one another by subscribing Bands and other means,  
 which is come to such a height, and daily like to in-  
 crease,

*Earls of  
Traquair's  
and Rox-  
borough's  
Letter to  
the King.*

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crease, that they see no probability by any Force within that Kingdom to repress their Fury, unless his Majesty would by some Act of his secure them from what they so much apprehend by the Books of Common Prayer and Canons. The way they have taken is inexcusable; but his Majesty is to consider what is best for his Honour and the Peace of his Government: And since Religion is pretended, his Majesty is to consider whether it will not be the safest Course to free them from those Fears, whereby the wiser sort will be satisfy'd, and his Majesty enabled to overtake the Insolences of the rest. This is the Opinion of most of the Noblemen and Men of Respect. They find few or none whom they dare advise his Majesty to trust in the prosecution thereof; and if any inform him the contrary, they intreat him to call them before himself, and in their presence hear their Reasons debated.

Letter  
from the  
Council to  
the Mar-  
quiss of  
Hamilton,

Sir *John Hamilton* had another Letter from the Council to the Marquiss of *Hamilton*, acquainting him how the Subjects fears and stirs had increas'd since the last Proclamation; that they had sent him to acquaint his Majesty with their Opinions of the Evils and Remedies; for the Peace of the Country was never in so great hazard, and therefore they recommended the business to his Lordship.

Whom the  
King re-  
solves to  
send Com-  
missioner,  
into Scot-  
land.

After Sir *John Hamilton's* Arrival at *White-hall*, his Majesty consulting with his inward Council, resolv'd to send Marquiss *Hamilton* into *Scotland* as his High Commissioner, hoping by the Marquiss's Authority to appease the Fury of the People; and Sir *John Hamilton* was immediately dispatch'd back to *Scotland* to give notice thereof. At this time the Lord *Lorn*, eldest Son to the Earl of *Argile*, the Earl of *Traquair*, and several other of the *Scottish* Nobility came to Court, who were follow'd by some of the Clergy.

The Cove-  
nanters  
Address.

The Covenanters likewise sent up an Address to the *Scottish* Lords at Court full of Complaints, dated April 28. sign'd *Roths*, *Cassils* and *Montrose*, and consisting of eight Articles, which, they said, were matters of God's Honor, of the Kingdom of Christ,



and the Peace of their Souls against the Mystery of Iniquity. 1. They desir'd the discharging of the Service-Book, the Book of Canons, and the late High Commission. 2. That they may for ever be deliver'd from any High Commission, as that which hath rais'd Troubles and Fears in his Majesty's loyal Subjects, is prejudicial to the lawful Judicatories of the Kirk and Kingdom, endangers mens Consciences, Liberties, Estates and Persons, and is a Yoke and Burden they are not able to bear. 3. Remembring how strangely the Articles of *Perth* were introduc'd, with what opposition carry'd, how the Ratification in Parliament was supplicated against by the Kirk, that they have been introductory of the Service-Book, make way for Popery, have for twenty years past caus'd Troubles and Divisions, and rais'd Jealousies between his Majesty and his Subjects, they see not why they should be urg'd by Authority, nor can they digest them any longer. 4. They cannot see that Ministers voting in Parliament, without such Cautions and Limitations as were offer'd by the Assemblies of the Kirk to be put into the Act of Parliament, and as the Assembly should find necessary afterwards, can be thought fit to vote in the name of the Kirk. 5. They have no greater Grievance, than that worthy Men, who have Testimonies of their Learning from Universities, are found by the Presbyteries to be qualify'd, and desir'd by the People, are rejected for not swearing and subscribing to Articles not warranted by the Acts of the Kirk or Laws of the Kingdom, and others of less worth obtruded upon the People, and admitted to the eminent places of the Kirk and Schools of Divinity; which makes the People run from their own Kirks, and refuse to receive the Sacrament there. This may be help'd by giving way to the 114th Act of Parliament 1592. ordaining all Presentations to Benefices to be directed to particular Presbyteries, with full power to give Collation thereupon, they being the lawful Office-bearers of the Kirk. 6. The National Assemblies of this Kirk, warranted by Divine Authority, ratify'd by Acts of Parliament, kept in other reform'd Kirks, and in this since the

nn. 16. 8.

the Reformation, and acknowledg'd by King James to be the necessary means for Piety and Union, and against Heresy and Schism, if reviv'd, and one as soon as may be indicted, Kirkmen might be try'd and kept in order, and the present Evils help'd: whereas if Kirkmen escape due Censure, and matters be impos'd in the Worship of God without Consent of the Assemblies of the Kirk, they will be suspected to be unsound and corrupt. 7. That his Majesty, for the redressing of Grievances, removing of Fears, establishing of good Laws, settling a firm Peace, and pacifying mens minds, would call a Parliament. 8. They refer the more particular matters, for extinguishing the present Combustions, to be consider'd by the Assembly and Parliament.

The Bps  
and Cler-  
gy's Grievances.

The Bishops who staid in Scotland sent up one *Learnmouth* to the Archbishop of *St. Andrews*, then at *London*, with their Complaints and Grievances, which were to this effect: 1. The Covenanters have chang'd the Moderator of the Presbytery of *Edinburgh*, and are doing the same throughout the Kingdom. 2. They have abus'd several Ministers, there in particularly nam'd. 3. The Presbyteries have given Imposition of Hands to several (they name) without Consent of the Bishop; That in several places they have admitted Men banish'd from *Ireland* (whom they name) to be Helpers in their Churches. *Mr. Samuel Rutherford* is return'd and settled in his place, and they intend to depose *Mr. Trotter* Minister at *Dirlinton*. 4. The Council of *Edinburgh* have chosen *Mr. Andrew Henderson* to be Helper to *Mr. Andrew Ramsey*, and intend to admit him without the Bishop's Consent. 5. Those Ministers who have not subscrib'd the Covenant are revil'd and curs'd on their faces, and their Stipends withheld. 6. They hound out rascally Commons on men who have not subscrib'd. 7. That his Majesty would discharge the Bishop of *Edinburgh* to pay any Prebend-Fee to those who have subscrib'd the Covenant, and the Lords of the Session not to grant any Process against him. 8. That honest Men depos'd in this tumultuous time from their places may be restor'd, and others who

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take any violent Course for suppressing these Disorders (which God forbid) some course may be taken for securing the persons of those honest Men who stand for God and his Majesty.

His Majesty seeing the strong Confederacy made

The King

by the Covenanters, and that *England* was not too well fix'd in their Obedience, resolv'd to leave no means unessay'd before he proceeded to a Rupture. He call'd into his Closet the Archbishops of *Canterbury* and *St. Andrews*, and the Bishops of *Galloway*, *Brechin* and *Ross* (the Marquis of *Hamilton* being there before) and declar'd he had chosen the Marquis for his High Commissioner: *St. Andrews* said he approv'd the Choice; and *Canterbury* asking why his Majesty had call'd him, the King said, that as he had been acquainted with the Proceedings before, so he might be inform'd of what pass'd thereafter. The Marquis desir'd to know what the Bishops expected from him: They answer'd, nothing but to procure the Peace of the Country and Good of the Church. He desir'd them to assist in reclaiming the Ministry that were once conformable, and for the others he should deal with them. The Bishops would fain have said at *London*, but it was resolv'd they should go some into their Diocesses; the Marquis (undertaking, as far as in him lay, to stand betwixt them and Danger. The Marquis was to declare nothing substantial should for the future be introduced in the Church, but by General Assemblies; and it was concluded, the Oath of admission of Ministers should be according to Law, and the Bishops were requir'd to be moderate in urging that and the Ceremonies.

calls the

Marquis,

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ry, and Sco-

tish Bps to

his Closet.

May 7. Letters were directed to the Nobility in *Scotland*, giving notice of the Marquis's coming; and the Marquis writ to his Friends and Dependents to meet him at *Hadington*, June 5. And his Commission being drawn up in the ordinary Form, two Proclamations were sign'd by the King: The one sign'd by the Earl of *Traquair*, taking notice of the Disorders in *Scotland*, occasion'd (as pretended) by the Service-Book, Book of Canons and High Commis-

A Procla-

mation

pen'd by

the Earl of

Traquair.



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tion, thereby fearing Innovation of Religion and Laws: His Majesty hop'd his two Proclamations of 11 Decemb. and 12 Febr. had been satisfactory; but the Disorders increasing, he grieving to see them run thus headlong into ruin, doth once for all assure them, that he neither is nor ever will be stain'd with Popish Superstition, but will maintain the Protestant Religion profess'd within that Kingdom; That he will not press the Service-Book or Book of Canons, but in a way that shall satisfy them he intends no Innovation, and will so rectify the High Commission as it shall be no just Grievance: That as he is willing to satisfy his Subjects Fears, how needles soever, \* so he will not have his Royal Authority impugn'd. He declared therefore and promised to pardon what is past, nay those factious and seditious Bonds, on condition they disclaim them, and deliver them or endeavour to procure them to be delivered up to his Council: And he declared those Traitors, who should not renounce and disclaim them within after publication hereof; and if they have not the said Bond or Bonds, nor can procure the Delivery thereof they are at least to renounce and disclaim them before some of the Council or chief Officers in Burgh, &c.

Another by  
the Mar-  
quiss.

The other Proclamation was pen'd by the Marquiss, and agrees with the former to the place mark'd \*, after which it follows to this effect: So his Majesty expected their future Behaviour should testify their Obedience, and that it was only the Fear of Innovations that caused those Disorders; but if he found not this perform'd, he held himself obliged to make use of those forcible means with which God has armed Royal Authority.

The King left it to the Marquiss, which of the two he would make use of; but if the second, and it gave no satisfaction, nor upon his desire most of the Bonds were not deliver'd up within six weeks, he should then publish another Proclamation, declaring the Covenanters Traitors, unless within five days they deliver'd up the Bonds, if in their power.

A third by  
the Chan-  
cellor.

There was a third Declaration pen'd by the Archbishop of St. Andrews, but laid aside: It took not

of his Majesty's former Proclamations, declaring he never intended to make any Innovation in Religion or Form of God's Worship, nor to press the Book of Common Prayer, till his Subjects approved the same; and yet they have been confirmed in their former mistakings, and bound themselves by Oaths and Subscriptions against the Laws, to which the People had been seduced by specious pretexts: wherefore his Majesty had now renew'd his former Declaration, and assured them, his Resolution was to maintain the true Religion establish'd by the Laws of that Kingdom without any Innovation, nor would he force on them the Book of Common Prayer or Canons, till they were satisfied of the Legality thereof; nor permit the Exercise of any Commission, which might give them just cause of Complaint. He requir'd them not to be misled by turbulent Spirits, and to believe he would perform what he had declared; but if any will disturb the Peace of Church and Kingdom, by following their private Covenants, his Majesty would use that Force and Power which God had put into his hands, for subduing such mutinous and disobedient Rebels. Thus this Prelate knowing how difficult it would be to get them to disclaim their Covenant, left that part out of his Draught: but the King was peremptory, saying, *That as long as that Covenant was retain'd, he had no more Power than the Duke of Venice.*

Before the Marquis had his Instructions in form, *The Mar-* he gave in many particular Questions in writing, how *quiss's In-* to govern himself, to which he got positive Answers *structions.* in writing from the King, placed over against the Marquis's Queries; which Queries and Answers we shall not recite here, they being of some length, and the most material of them in the Marquis's Instructions, which the King signed the 16th of May, and were to the effect following: 1. The Council are to sign the Declaration before published, and (if the Marquis thinks fit) the Refusers dissolved the Council. 2. The Council to sit where he finds convenient, *Edinburgh* excepted. 3. To press some of the Refractory underhand, before the Declaration

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declaration be published. 4. To endeavour an Act of Council (if he is sure to carry it) that the Declaration is sufficient to free 'em from the fears of Innovations. 5. The Protesters against the Declaration to be apprehended as Rebels. 6. To give a bold Denial to Petitions for further Satisfaction than in the Declaration. 7. If objected, no Act of Parliament for the High Commission. *Answ.* It was left him by his Father, and he will now regulate it, which he will confirm in Parliament. 8. If a Body remains at *Edinburgh* after the time limited in the Declaration, to dissipate them by force. 9. After a Peace settled, he is to call a General Assembly; his Majesty intending a Parliament to ratify what they do. 10. No other Oath imposed by Bishops at Ministers admission, than what warranted by Act of Parliament. 11. The same Service used in the Chappel Royal as before the Service Book. 12. No Petition against the five Articles of *Perth*, tho not exacted for present. 13. When *Edinburgh* departs from the Covenant, the Council and Session to return thither. 14. Pardons and Acts of Council not to be denied. 15. His Majesty may grant some marks of Favour to deserving Persons. 16. The Use of the new Service-Book to be suspended. 17. Every Bishop to live within his own Diocese's, except upon urgent occasions, or when commanded to attend at the Council, which he intended but seldom. 18. To refuse Complaints against no man, whether Counsellors, Bishops, &c. 19. Ministers displaced by the seditious Multitude to be repossess'd. 20. To connive at the Preaching of silent Ministers, if tending to Peace. 21. The Use of the Organs in the Abbey-Church left to his discretion. 22. Six weeks or less in the Declaration for delivering up of the Covenant. 23. To declare, That if there be not sufficient Strength in *Scotland*, his Majesty will come with a Force from *England* to reduce the Refractory. 24. To raise a Guard of 2000 to attend the Council. 25. To treat with the Earl of *Marr* for the keeping of *Edinburgh* and *Sterling* Castles. 26. To consider of the Copper Coin, and declare his Majesty's willingness to remedy it. 27. An

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that he intends not to assume the Nomination of the Provost of *Edinburgh*, nor too frequently the Election of their own Officers. 28. Nor will stop the course of Justice by any private Directions. 29. To use all Acts of Hostility against the Refractory, that will not be otherwise reduc'd. 30. To divulge such of these Instructions, as he shall find cause for.

A few days after the Marquis took his leave, his Majesty having order'd him to write often to him, and to the Archbishop of *Canterbury*, he being the only *English*-man trusted with the Secrets of that business. The Earl of *Sterling* then Secretary of State for *Scotland* was odious for the Copper Coin, little esteem'd at Court or employ'd. Sir *Henry Kane* and the Marquis had contracted a Friendship in the *Swedish* Camp, but corresponded only about the posture the King was in, if it should come to Force; but with the ABp of *Canterbury* the Marquis kept a constant and free Correspondence. Upon his way towards *Scotland* he was inform'd of the Jealousies there, on his advertising so many to meet him, and that his Vassals of *Cliddisdale* were forbidden to come. June 3. he came to *Berwick*, where the Earl of *Roxborough* met him, and told him what small hopes there were of prevailing; but he resolv'd to go on. Next day came the Earl of *Lauderdale* and Lord *Lindsay*: from the latter he learn'd, that they would never give up the Covenant, but would have the five Articles of *Perth* abolish'd, Episcopacy limited, and a general Assembly and Parliament, before the Crouds were scatter'd. A Ship arriving at the same time in the Road near *Edinburgh* with about 200 Muskets, as many Pikes and a small quantity of Powder, caus'd a great Alarm there (the quantity of Arms being represented much greater) and the Earl of *Traquair* having gotten them convey'd to *Dalkeith*, the King's House, some of the more forward were for taking them by Force: however they set Guards about the Castle and Ports of *Edinburgh*, to keep them from thence; and to irritate the Multitude, a Report was spread, the Marquis design'd to call the chief Covenanters to *Dalkeith*, and blow them up.

The Mar-  
quis goes  
for Scot-  
land.

Jealousy of  
him there.

Ann. 1638.

The great  
Disorders  
in Scot-  
land.

The Cove-  
nant gene-  
rally fa-  
vour'd.

He advises  
the King to  
prepare for  
War.

The Marquis found things in *Scotland* in greater disorder than he imagin'd: almost the whole Council favour'd the Covenant, and the Bishops were hated by all. The Earls of *Traquair*, *Roxborough* and *Southesk* seem'd best affected, yet their Limitations troubled him. The Lord *Lorn*, now by his Father's death Earl of *Argile*, seem'd to go on with the King's Service, but was suspected to favour the Covenanters. The Marquis of *Huntley* was sent North to keep those there in the King's Interest: Many Lawyers were for the Covenanters, chiefly the King's Advocate Sir *Thomas Hope*, whom therefore the Marquis durst not advise with; nor could he get any Lawyer to declare the Covenant was against Law. Sir *Lewis Stewart* promis'd private Assistance, but durst not appear publickly: Sir *Thomas Nicholson*, the best able to be set up against *Hope*, begun to pretend Scruple of Conscience. He then dealt with the Chief of the Covenanters, the Earls of *Roths*, *Cassils*, *Montrose*, *Lowdon*, and *Lothian*, the Lords *Lindsay*, *Tester*, *Balmerino* and *Cranston*; but neither could Reason convince, Promises prevail, or Threats over-rule them. The Country was destitute of Arms, and the Covenanters were furnishing themselves: Of all this he advertis'd the King, to prepare himself to reduce them by Force, and in *Holland* and other parts beyond Sea to stop selling of Arms to *Scottish* Men. Besides the Guards they at *Edinburgh* had set at the Port there, the Tables had taken away the Keys from the Magistrates, and had thoughts of securing the Castle which had neither Arms or Ammunition; and the more violent threaten'd they would force both Commissioner, Council, and Session to take the Covenant nor would they hear of any Proclamation, but upon the Terms before mention'd. So that the Marquis durst not publish his Majesty's Declaration, especially that part concerning the Covenant, knowing it would meet with a Protestation; but inform'd the King that he must resolve to yield to all they demanded, and hasten down his Fleet with 2000 Land-Soldiers in it, send Arms into the North of *England*, garison *Berwick* and *Carlisle*, and follow in Person with a Royal Army.

Army; for nothing but Force would make them give up their Covenant.

14 Car.

The Town of *Edinburgh* invited him to *Holyrood-House*, which he refus'd, unless they dismiss'd their extraordinary Guards: This being done, he came thither *June 9.* about 60000 met him, whereof about 500 Ministers: four of them resolv'd to entertain him with Speeches, which he shun'd with great difficulty; but they came to him in private, and with great vehemency and tears in their Eyes represented to him the danger Religion was in. And now he began to gain ground on their Affections; he shew'd them how firm the King was to the Protestant Religion, his Condescensions concerning the late Books, his Resolution to call an Assembly and Parliament, and the madness of hazarding a Rupture with the King, it being easy to engage *England* against them, the King's Navy in good order, and 'twas not difficult to destroy their Trade and impoverish the Country. This prevail'd with some, and the Multitudes began to disperse; but the Covenant was so dear to them, that to speak of delivering it up, endanger'd all.

The Marq. comes to Edinburgh. 60000 meet him.

He mollifies some of the Covenanters.

*June 15.* the Marquis receiv'd a Letter from his Majesty to this effect: That he hoped next week to give him a good account of his Preparations: He liked of what he had done, intended to stick to his Grounds, and expected not to reduce that People by any thing but Force. He expresses his trouble about *Edinburgh* and *Sterling* Castles, which latter he holds as lost: He is content he should forbear the latter part of his Declaration, till he heard his Fleet had set sail. In the mean time he might flatter them with what hopes he would, so he engag'd him not against his Grounds; particularly not to consent to a Parliament or General Assembly, until the Covenant be given up: The chief end was to gain time, till he was ready to suppress them; his Crown and Reputation being at stake, and he would rather die than yield to their Demands, which was to yield to be no King in a short time. He expected not he should declare the Covenanters Traitors, until he heard the Fleet had set sail.

The King's Letter to him.



Ann, 1638.

*He delays  
to publish  
the Procla-  
mation.*

*The King's  
Letter.*

The Marquis had taken this latter Resolution before he had the King's Letter, and had written to the Archbishop of *Canterbury*, that he durst not publish the Proclamation till the Multitudes were wholly dispers'd, lest Authority might be affronted. The Multitudes began to disperse, and Commissioners only staid in name of the rest: But the Ministers hearing the Covenant must be given up or no Treaty, made the Pulpits ring with it, some affirming that the Faggots in Hell were prepar'd for the Marquis's Reward, and all declaring they would never quit their Covenant, but with their Lives. A Protestation was also resolv'd on, whenever the Declaration was publish'd, which the King's Advocate told him might be legally done, as it was in the year 1621. But yet the Marquis wrote to the King, not to hasten his Preparations, till things were more desperate; which the King by his Letter dated *June 13.* told him he would stay accordingly, unless in a silent way, that he might be ready upon the least Advertisement. He approv'd likewise of his making the Multitude begin to disperse: He hop'd now his Castles might be secur'd; but would have him (as one of the chief things) to get some of the Sessioners and Advocates to declare the Covenant against Law, if not treasonable.

The Town and Country about *Sterling* so threatened the Session, that they could not return thither; the Marquis therefore desir'd the King's Warrant to bring it to *Edinburgh*, whereby some of the most troublesom of the Covenanters, who were broken in their Estates, when Justice was open might be driven away, but chiefly that they might think a Treaty was intended: For the Session, what through Fear, and what through Inclination, was not to be relied on, nor were there any hopes the Judges or Lawyers would declare the Covenant seditious or treasonable; of some few only of those who sat on the Bench he was secure, as *Sir Robert Spottiswood* the Archbishop of *St. Andrews* his Son, the President, *Sir John Hay* Clerk-Register, *Sir Andrew Fletcher*, *Hat y burton*, and one or two more. *June 16.* The Covenanters

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nanters petition'd the Marquis for a present Redress of their Grievances, and desir'd him to propose it to the Council. He told them the King resolv'd to call an Assembly and Parliament to that end, when the Disorders were compos'd; but this was not satisfactory, and he durst not call a Council about it, lest they should side with the Covenanters. He acquainted his Majesty, how he was press'd to represent to him that the Covenant was not illegal, and that the Explanation they offer'd of the Bond of mutual Defence might be accepted: He desir'd his Majesty to consider how forward his Preparations were, lest they got the start of him. *England* wanted not its Discontents, *France* had not forgot the Isle of *Rhea*, and had cherish'd these Broils, and the Covenanters were resolv'd upon the first Rupture to march into *England*.

14 Car.  
The Covenanters  
press for  
speedy Satisfaction.

They prepare an  
Explanation  
of the Covenant.

The Archbishop of *St. Andrews* was for accepting of an Explanation of the Covenant, as appears by a Draught of it under his Pen to this effect: That they the Noblemen, Barons, Burgesses, Ministers, &c. who had join'd in a late Bond or Covenant for maintaining true Religion and the Purity of God's Worship, understanding his Majesty is highly offended, as if they had usurp'd his Authority and shaken off all Obedience, do protest the same never enter'd into their Thoughts, and that all their Proceedings were with expresse reservation of their Obedience to his Majesty, whom they beseech to call a National Assembly and Parliament, for removing their fears of introducing in this Church a Form of Worship they have not been accusom'd to, for redressing their just Grievances, and for settling a constant Order in the Civil and Ecclesiastical Government; which if by his Grace's Intercession they obtain, they promise to continue in his Majesty's Obedience.

ABp of St.  
Andrews  
draws one.

The King by his Letter dated 20 *Jun.* in answer to that of the Marquis, acquaints him, that he approved of all he had done; That he would now shew him in what Estate he was; his Artillery consisting of forty Pieces of Ordnance, all Drakes, half or more to be drawn with one or two Horses a-piece, would

The King's  
Letter of  
his Preparations.

*Ann. 1638.* would be ready within six weeks, Money and Materials not being wanting: He had sent to *Holland* for Arms for 14000 Foot and 2000 Horse; his Ships are ready, and three were order'd to the Coast of *Ireland*, under pretence to defend our Fishermen: The Treasurer and Chancellor of the Exchequer doubt not of furnishing 200000 *l. sterl.* for this year's Expedition. He desires his Advice, whether he should send 6000 Landmen with the Fleet that goes to the *Frith*, to make himself Master of *Leith*, and fortify and keep it. He would have him see if he can make the Guns of *Edinburgh-Castle* unserviceable. He intends not to yield to the Demands of those Traitors the Covenanters, who he believes will declare themselves such by their Actions, before he doth by his Proclamation, the affronting of which he valued not, so it broke not out to open mischief till he was ready. And by another Letter dated *June 25.* the King thanks the Marquis for standing so closely and constantly to his Grounds: For the Covenanters Petition, he hath not chang'd his mind, since it was debated and resolv'd on before the Marquis went from him: For the Explanation of their damnable Covenant, as long as that Covenant was in force (whether with or without Explanation) he was in *Scotland* but as a Duke of *Venice*; which he would rather die than suffer, altho the Explanation may be heard, ken'd to, to gain time. He believes, if upon publishing his Declaration a Protestation should follow, it would do more good than hurt, and so would the calling a Parliament or Assembly without him, for he would loudly proclaim them Traitors; therefore the Declaration would not be long delay'd: but this is his Opinion, not Command. He resolves to come Person accompany'd like himself.

*The Marq.  
threatens  
the Cove-  
nanters.*

Upon these Letters the Marquis spoke big to the Covenanters, threaten'd to leave the Employments and go to Court, but to return with his Majesty another posture. This cool'd their Courage a little for they were not then ready for a Breach: They said they were sorry his Majesty mistook their intentions, which aim'd only at the Preservation

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Religion and Laws. The Marquis offered them, if they would all go home, he would wait on his Majesty with their Desires, and return them an Answer within three weeks or a month: but his true reasons were to gain time, to see how forward the King's Preparations were, and to endeavour to establish the Confession of Faith, which pass'd in Parliament in 1567. which if his Majesty signed and authorized, with a Bond for defending it with Subordination to his Authority, he judg'd it might give satisfaction to all, or a considerable part of the Covenanters, that there should be no Innovation in Religion. This being not to be managed by Letters, he beg'd the King's Permission to wait on him, which his Majesty by his Letter dated *June 29.* granted, but caution'd him not to engage himself in the way of Mediation to him against his Grounds; to take care no more Subscriptions be urg'd upon any, especially Council or Session; and that he gives assurance to those few that had not yet forsaken his Majesty's Cause, that his Upcoming is not to desert either them or it. He said, he is confident his Declaration (according to the Alterations the Marquis had leave to make) would put some stop to the madness of the Multitude. The King also signified to him by the Archbishop of *Canterbury*, that he might add some general words to the Declaration, giving hopes of an Assembly and a Parliament, and gave him warrant for removing the Session to *Edinburgh*.

*The King gives him leave to come to Court.*

*Leave to remove the Session to Edinburgh.*

In this Juncture the Bishop of *Ross* writ a Letter to the Marquis, dated from *Berwick June 29.* to this effect: He was sorry to hear that his Lordship's Success was not such as all good Christians and Subjects pray for, but glad that nothing necessary had been omitted by him; his Lordship's course hath been such, as all good and wise men approve of; infallibly it will indear him to his Master, and to all the well-affected, especially honest Churchmen. It cannot seem strange, that in the concurrence of so many Distempers, different Judgments, variety of Affections, and private Ends, the wisest and most powerful Agents cannot on a sudden reduce all to Order,

*Bp of Ross his Letter to the Marquis.*

*Ann. 1638.* Order, Peace and Quiet: In any great Work of this nature we must rely somewhat more on the Providence of God than in ordinary Accidents; he is able to work Good out of Evil, and Order out of Confusion, to the King's Honour and Peace of Church and State, which he prays to see, without any other effect upon any Author or Abetter of these Disorders, than God's Mercy, and his Majesty's Clemency. He begs his Grace will pardon the Expressions of a poor Heart surcharg'd with Grief, who can return nothing but his Thanks and Prayers: That they intended to remove from thence, as his Lordship had advis'd them, and should acquaint him with their Abode: His noble Offer to supply them with Mony, they were asham'd to accept of, by being so chargeable, when they are altogether unuseful to him; but not being now able to command their own, nor knowing who will trust them, they cast themselves upon his Bounty. He intreated his Lordship to let him have by the Bearer 150 Pieces payable at *Whitsunday* next with the Interest, or at *Martinmas*, as his Lordship pleas'd, for which he should receive from the Bearer his own personal Bond. So far the Bishop. Now the Marquis had Orders from his Majesty to see the Bishops or other Clergymen that were Sufferers reliev'd out of the Treasury; but that being exhausted, the Marquis supply'd them out of his own Mony without any Security.

Scottish Bps  
reliev'd.

The Session  
fits again  
at Edin-  
burgh.

The Coun-  
cil sign the  
King's De-  
claration.

The Marquis emitted a Proclamation for the bringing the Session to *Edinburgh*, commanding them to pass a due Censure on whatsoever should come to them from the Tables: He promis'd to present the Covenanters Petitions to his Majesty, and return them an Answer by the 5th of *August*. On the fourth of *July* he presented the King's Declaration to the Council, with those Alterations and Additions that had been made by the King's leave since the Marquis came to *Scotland*, and got it sign'd by them all. And an Act pass'd in Council, That the Subjects ought to rest satisfied with it; and then it was sent to the Market-Cross and proclaim'd, but met with a Protestation.

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The Declaration was the same as was pen'd by the Earl of *Traquair* (herein before mention'd) as far as that which concerns the High Commission, and then it follow'd to this effect: That what was further fit to be agitated in general Assemblies and Parliament, for government of the Kirk and establishing Religion, should be taken into his Majesty's Consideration in a free Assembly and Parliament, to be call'd with his best convenience; and he takes God to witness, his Intent is not to admit of any Innovations in Religion or Laws, but to maintain both: He expects their Behaviour will testify their Obedience, and how sensible they are of his Grace and Favor, that passeth over their Misdemeanors, and will make appear it was only fear of Innovation that caus'd the late Disorders: That they will rest satisfied with his pious Intentions for maintenance of Religion and Laws, and not be blindly misled to their own ruin; he being unwilling to make use of the Power God hath given him for the reclaiming of disobedient People.

The Protestation of the Covenanters was to this effect: That having been in his Majesty's absence from his native Kingdom heavily press'd with divers Innovations, which tend to the prejudice of the King's Honor, and of their Religion, Laws and Liberties; whereby there was no way left for them between Excommunication and Rebellion on the one part, and the danger of forsaking the true Religion, and the Breach of their Covenant with their God on the other, but to present their Supplications to the Lords of secret Council, that they might either be answer'd by them, or might by their Recommendation ascend to his Majesty's Consideration: They supplicated their Lordships accordingly, and after they had long attended in quiet and christian manner with a great deal of Patience, their Lordships promis'd to represent their Complaints to his Majesty, and to report his Answer, which when they expected, a Rumor was in *February* last generally spread, That their Lordships were commanded to make such a Proclamation, concerning the Service-Book, Book of

*Protestati-  
on against  
it.*



Ann. 1638.

of Canons, and their peaceable Meetings, as they were persuaded to have been procur'd by the misinformation of their Adversaries; whereby they found themselves obliged to decline those against whom they had complained from being their Judges, and in case their Declinator should not be accepted, they behov'd to protest that they might have immediate recourse to the King himself: and finding by the said Proclamation the Innovations supplicated against approv'd, their lawful Proceedings condemn'd, and their Meetings prohibited, they were necessitated to renew the National Covenant of this Kirk and Kingdom, to reconcile them to God, to clear their Sovereign's mind of all Jealousies, that he might accept of their Supplications, and to defend Religion, Authority and Liberties against Divisions and Violence. That they drew up their Grievances to be deliver'd to the King himself, but were directed by those he intrusted to attend his Declaration, which would free them of all fears of Innovations in Religion; whereupon they drew up their Desires in some few Articles, and have with great patience attended his Majesty's pleasure therein; and having waited for a month last past to hear the same deliver'd by his Majesty's Commissioner, they presented a Petition to his Grace, craving the Indiction of an Assembly and Parliament: and finding their Covenant to be mistaken for an unlawful Combination, and the main hindrance of obtaining their Desires, they fully remov'd that Impediment, by renewing their Supplications for an Assembly and Parliament, but after nine months attendance were answer'd only with this Proclamation, which contains his Majesty's Declaration of his Intentions, not to admit any Innovations in Religion or Law, or any Stain of Popish Superstition, but to maintain the true Christian Religion, which (they say) they never doubted of; however they thank him for declaring so, praying the Lord of Heaven to inform him how far those Books, Judicatories, and their other Evils and Grievances, are full of idolatrous Superstition and Popish Errors, and so contrary to his Majesty's Intentions and

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and Declaration; nor can any Proclamation remove the present Evils, secure them from the like hereafter, or satisfy their Supplications, an Assembly and Parliament being the only Remedies. That this Proclamation mentions not their Supplications or Complaints, but under the name of Disorders, Faults and Misdemeanors, and their Fears of Innovations pretended only to be occasion'd by the Introduction of the Service-Book, Book of Canons, and High Commission; which Fears his Majesty hop'd to have been satisfied by his Proclamations of the 9th of December and 19th of February, and so passes over, and in effect denies all their Supplications and Desires, especially their Complaints against the Prelates; nor doth it disallow or discharge any of the Innovations or Evils complain'd of, but only assureth, that his Majesty will not press their Practice but in such a fair and legal way as shall satisfy his Subjects of his Intentions; which leaves liberty to any Prelates or others to practise the same, or by fair means to persuade others thereunto, and confirms the former Declaration, That the Service-Book is a ready means to maintain the true Religion, and to beat down Superstition: nor doth it abolish, but promiseth to rectify the High Commission, with the Advice of his Privy Council, implying, that the King with their Consent may, without that of the three Estates in Parliament, establish any Judicatory whatsoever, and consequently as well the Service-Book. He promises an Assembly and Parliament at his best convenience, whereas the Combinations, threatening the Dissolution of Church and State, call for present Remedies: Insinuates the Continuance of the Innovations, Corruptions and Civil Places of Churchmen, against which they had enter'd into a Covenant, and the Re-establishment of 'em in an Assembly and Parliament; condemns their supplicating, complaining, protesting, subscribing their Covenant, and Meetings as great Disorders; and threatens, if he finds them not obedient, to make use of the Power God hath given him. They therefore, in the name of all who will adhere to the Confession of Faith, and Reformation of Religion,

*Ann. 1638.* do protest, 1. That they will adhere to the said Reformation in Doctrine, Sacraments and Discipline, against all Innovations. 2. They adhere to their Supplications, Complaints, and Protestations against the Service-Book and Book of Canons, as Innovations, and full of Popish Superstition, and against the High Commission, as a Judicatory contrary to the Laws and Liberties of this Church and Kingdom, and introduc'd without Consent in Parliament. 3. They adhere to the Confession of Faith, that solemn Covenant between God and them, and to their last Articles which were drawn out of it. 4. They protest, That this, or any other Proclamation or Act of Council, or Precondemnation of their Cause before heard and try'd in the supreme Judicatories of this Kirk and Kingdom, shall not be prejudicial to the Confession of Faith, or their Laws, Liberties, Supplications, Protestations, Complaints, Articles, Meetings, Proceedings, mutual Defences, Persons or Estates, and shall be held unjust, illegal and null; and therein they appeal to the first Assembly and Parliament. 5. They protest, That seeing their former Supplications, last Articles, and last Petition for a general Assembly and Parliament are delay'd, and in effect refus'd, whatsoever Trouble or Inconvenience falls out in the mean time for want of these Remedies, or by the Practice of these Innovations and Evils, is not to be imputed to them, but that it shall be lawful for them to defend their Religion, Laws, and Liberties, the King's Honor in defence thereof, and every one of them one another in this Cause, against all Persons, and all external and internal Invasion menac'd in this Proclamation, and to appoint, hold and use the lawful Meetings and Assemblies of the Church. 6. They protest, That their former Supplications, Complaints, Protestations, Confessions, Meetings, Proceedings, and mutual Defences of one another in this Cause, as they are necessary and agreeable to the Laws and Practice of this Church and Kingdom, and not to be accounted Disorders, Misdemeanors, or blind Disobedience under pretext of Religion; so they proceeded only from Conscience of their Duty to



their God, King, Country and Posterity; and tend to the Preservation of their Religion, Confession of Faith, Laws and Liberties; and therefore they do adhere thereunto again and again, as they would chew the Curse of Almighty God following the Breach of his Covenant; and expect that his Majesty would presently indict those ordinary Remedies of a free Assembly and Parliament.

Before the Marquis's departure, the Covenanters yielded to an Explication of their Covenant in the Terms following; viz. That they had presented a Petition to his Grace for a free Assembly and Parliament, as the only means to put this Kirk and Kingdom in quietness; That his Grace had told them his Majesty was willing thereunto, but that he conceiv'd their Confession of Faith and Covenant was an unlawful Combination against Authority, to cast off their Obedience, and not for maintaining true Religion, his Majesty's Authority, and their Laws and Liberties; That they being willing to remove that Hindrance of the obtaining their Desires, and for clearing their Loyalty, do remonstrate to his Grace, That they are far from any thoughts of withdrawing themselves from their Obedience to his Majesty's Government, which is continu'd by Descent from 107 Kings, or from attempting any thing to the dishonour of God, or diminution of the King's Greatness and Authority, on whose Safety they acknowledg their Stability and Happiness to depend; they having solemnly sworn not only their mutual Assistance for the Cause of Religion, but to stand to the Defence of his Majesty in preservation of Religion, Liberties and Laws. They therefore desire his Grace to believe, their Confession of Faith and Covenant was intended as the largest Testimony of their Fidelity to God and Loyalty to their King, and that he would indict a General Assembly and Parliament.

Marquis Hamilton told the Covenanters, he had Demands no Authority to indict an Assembly, unless some Particulars were first agreed on, which he deliver'd to them in ten Articles; but they disliking them, he reduc'd them to these two: 1. That no Laicks should

*The Covenanters  
Explication  
of their  
Covenant.*

*James Oglethorpe  
a. 1682*

*James Oglethorpe  
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*James Oglethorpe  
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*James Oglethorpe  
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Ann. 1638.



The Council  
inconst.

The Marq.  
tears their  
Act.

He takes  
care of the  
King's  
Castles.

Comes to  
Court, and  
gives the  
King an  
Account of  
Affairs.

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have Voices in chuſing the Miniſters to be ſent from the ſeveral Presbyteries to the General Aſſembly, nor none elſe but the Miniſters of the ſame Presbytery. 2. The Aſſembly ſhall determine only of things Eccleſiaſtical, leaving things eſtabliſh'd by Parliament to the Parliament, which he promis'd immediately after the Aſſembly to indict. This highly diſpleas'd the Heads of the Covenanters, who began to think of Election of Commiſſioners for the General Aſſembly; but the Marquiſs telling them, That then he would not go his Journey at all, but leave them to their own ways, they conſulted with their Tables, and agreed the Election of Commiſſioners ſhould be defer'd until his Return. And now there aroſe another difficulty: The Marquiſs had got ſome of the Privy Council, who were not ſatisfied with the Declaration, to be abſent that day; but afterwards ſome of thoſe who had ſign'd the Act, That the Subjects ought to be ſatisfied with the Declaration, declar'd, They found upon ſecond thoughts they had wrong'd their Conſciences, and deſir'd him to call a new Council, where they might retract it; which if he deny'd to do, they would ſubſcribe the Covenant. The Marquiſs perceiving, that if he gave them no Satisfaction, three parts in four of the Council would fall off to the ruin of the King's Affairs, he calm'd the Storm by tearing the Act in pieces before them.

The Marquiſs ſecur'd *Dunbritton* Caſtle in the hands of *Sir William Stewart* the Conſtable, but he could not by fair means get *Edinburgh*-Caſtle at firſt out of the Earl of *Marr*'s hand. This being done, he took his Journey, and by the way met with the King's Letter to haſten him up.

When the Marquiſs came to Court, he gave the King an account of all had paſs'd; and ſeeing nothing ſo much prevail'd on the Vulgar in *Scotland*, as the Inſinuations were given of his ſtaggering in the Profeſſant Religion, he propos'd, that the Confeſſion of Faith might be renew'd, which was eſtabliſh'd at the Reformation, and ratified in Parliament in 1560, whereunto his Maſteſty readily conſented.

14 Car.  
Gets new  
and fuller  
Instru-  
ctions.

At length his Majesty having for some days consider'd the whole Affair with the Marquis and Archbishop of *Canterbury*, resolv'd on enlarging the Marquis's Instructions, which he did *July 17. 1638.* to the effect following: 1. To get the Council to sign the Confession of Faith establish'd by Act of Parliament, but not to put it to voting, unless sure to carry it, and that probably they will stand to it. 2. If the Council sign it, or if they do not sign it (if no better way can be thought on) he is to indict a free General Assembly. 3. Their sitting not to be till 1 *November* or afterwards; the Place he left to him, the manner of indicting as near as can be to that in his Father's time. 4. To endeavour the Bishops may have Votes therein, or he to protest in their Favours. 5. The Moderator to be a Bishop, if it can be obtain'd. 6. To endeavour, that the five Articles of *Perrh* be held indifferent; That the Admission of Ministers continue as it is, and he may condescend, the Oath of their Admission be only that warrant'd by Act of Parliament. 7. To publish the Order of Council made at *Holyrood-house 5 July*, for discharging the use of the Service-Book and Book of Canons, and Practice of the High Commission. 8. To protest against abolishing of Bishops, to consent to as few Restrictions of their Power, and to keep them as free to hold Civil Places as may be. 9. To consent they shall be accountable to the next General Assembly after this. 10. Not to admit any Debate about the Bishops Precedence, being no point of Religion. 11. To give way to Accusations of Bishops, Officers of State, &c. so they have a free Trial. 12. To direct what course the Bishops shall take that are out of the Country. 13. To advise the Bishops not to sit in the Council at present. 14. To yield to any thing, tho unreasonable, rather than break now. 15. Not to indict an Assembly, till the Country settled. 16. The Moderators nam'd by Bishops in Presbyteries to be held lawful Members of the Assembly. 17. Ministers turn'd out to be restor'd; those admitt'd without Bishops to forbear their Function. 18. People to keep their own Churches and Bishops, and



Ann. 1638. Ministers who take not the Covenant to have their Stipends. His Majesty also gave the Marquis warrant, if necessary, to call a Parliament against April next.

*The King's Letter to the Council,* His Majesty likewise wrote to the Council in Scotland to this effect: That the Distractions there had arisen from Jealousies and Fears of Innovation in Religion and introducing of Popery, and that he himself was that way inclin'd; upon which occasion a Covenant had been sign'd there, which not having the Royal Authority (as that had in his Father's time) was null in it self. But for the obviating these causeless Fears, he lets them know, that he is and ever hath been fully satisfied in his Judgment and Conscience for the Reformed Religion, and against the Roman; and that he will live and die in the Belief and Practise of the Religion now establish'd, and preserve it according to the Laws: and requires them to see this Letter register'd.

*And Declaration,*

*With the Confession of Faith and Bond to be sign'd.*

His Majesty likewise sign'd a Declaration, the former part whereof was the same in effect with his abovesaid Letter to the Council; and after he had profess'd his Resolution to maintain the true Reformed Religion, he thus goes on: That to satisfy his Subjects, and all the Christian World hereof, he had sign'd the Confession of Faith establish'd by Act of Parliament in 1567. with the Bond following, and requir'd the present Subscription of this Confession and Bond by all his Subjects. Then follow'd the said Confession of Faith, for which, it being of great length, the Reader is refer'd to the Acts of Parliament of Scotland; and then follow'd the Bond, whereof part was to this effect, viz. They protested and swore, they were resolved in their Consciences, That this is the Confession of the true Faith of Christ, establish'd by the Laws of this Country; and would profess and maintain the same all their days, and under the Obligation of the same Oath would defend not only Religion, but the King's Person and Authority, and their Laws and Liberties against all Persons and Things, and also one another under the same Obligation.

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But while the Marquis was at Court, the Cove-  
nanters were posting up and down in Scotland to get  
more Subscriptions to the Covenant. At Aberdeen,  
where there were then many learned Doctors and  
Professors, they found cold welcom, not getting a-  
bove nineteen or twenty Subscriptions, nor being suf-  
fer'd to preach in the Churches. This was the Rise  
of the Debate which follow'd between the Doctors  
of Aberdeen and those Ministers who being pinch'd  
about the Lawfulness of combining without Autho-  
rity, alledg'd, that my Lord Commissioner was sa-  
tisfied with the Covenant upon the Offer of the  
aforesaid Explication; which had no other ground  
than that by the King's Order he treated about that  
Explication to gain time.

The Cove-  
nanters  
busy in  
Scotland.

The Marquis brought with him to Scotland Dean  
Belcanquel, whose Counsel he intended to use in  
Church-Affairs, and who afterwards pen'd the King's  
large Declaration. August 10. The Marquis came  
to Holyrood-house, but found things much worse than  
he left them; for the Covenanters had enacted, That  
none should bear Office in Boroughs, unless he first  
took the Covenant; and were resolved, Bishops  
should have no Vote in the Assembly, unless chosen  
by a Presbytery; to abolish Episcopacy, excommu-  
nicate most of the Bishops, condemn the Articles of  
Perth, discharge Bishops to vote in Parliament, and  
enjoin all under pain of Excommunication to sign  
the Covenant: they began to levy Men, and vent on  
a new Device of Lay-Elders to be chosen Commis-  
sioners. These things surpriz'd the Marquis, who re-  
solved therefore not to call a General Assembly, till  
he went and acquainted his Majesty therewith.

Dr. Bel-  
canquel  
comes thi-  
ther.

The Cove-  
nanters  
high Reso-  
lutions.

August 13. The Covenanters came to demand the  
King's Answer; but he excus'd himself, till he had  
first communicated it to the Council, which he held  
the next day, and delivered the King's Answer in  
Terms extolling his Majesty's Grace and Goodness;  
who finding such distraction in the Church and State,  
that they cannot be well settled without a Parliament  
and Assembly, the State of the Country and Business  
being prepar'd for it, had given him warrant for  
calling

The Marq.  
makes  
known the  
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*Ann. 1638.* calling of both, that they may be orderly held according to the Laws; That the Subjects Carriage had been such, that they might have justly expected his Majesty would by a powerful and forcible way have taught them Obedience, but his Mercy had prevail'd above his Indignation. The day following he gave the Covenanters the same Answer, with which they were no way satisfied. They ask'd him what he meant by preparing of Buſinels; He said, it was to establish Order in the Country, as it was before those Combuſtions, and gave them a Note of those Particulars his Majesty order'd to be settled, before he indicted an Assembly and Parliament: but they declining to execute them, and threatening to call an Assembly and Parliament themselves, the Marquis again crav'd twenty days to go and bring an Answer from his Majesty, which he did to gain time; and so took his Journey.

*The Covenanters dissatisfied.*

*The Marquis goes again to Court.*

*Articles of Advice offered to the King.*

At *Broxmouth* he stop'd, to confer with the Earls of *Traguar*, *Roxburgh*, and *Saunders*, and they agreed upon the following Articles of Advice to be offer'd to his Majesty, which they all four subscrib'd, viz. That the Service-Book, Book of Canons, and High Commission giving the first occasion of the Fears of Innovation of Religion, which have been the Cause of all the Distractions that had happen'd, his Majesty would, 1. Absolutely discharge the said Books, which are offer'd to be prov'd full of Tenets and Doctrines contrary to the Reformed Religion establish'd within this Kingdom. 2. Would absolutely discharge the High Commission, which is affirm'd to be of a vast and unlimited Power, and contrary to express Laws, whereby such Judicatories not establish'd by Parliament, are declar'd of no force. 3. That the pressing of the five Articles of *Persh*, which have been generally withstood, may be forborn, till consider'd of in an Assembly and Parliament; and that the unlimited Power the Bishops assume in admitting and deposing Ministers, and in other matters, may be consider'd of in an Assembly. 4. The sense of these Evils having stir'd up the Subjects to join in a Bond and Covenant without warrant of Authority, that

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his Majesty in lieu thereof would allow such a Confession of Faith, with such a Covenant or Bond as that sign'd by his Majesty's Father, and by his Command by the Council and most part of the Kingdom. 5. That the Courses which have been taken having (as is hoped) proceeded from the Fears of Innovations, and not out of Disloyalty, his Majesty would be pleas'd to pardon what is past. 6. If his Majesty shall condescend hereunto, and any shall be so foolish or mad still to disturb the Government, they offer their Lives and Fortunes for assisting his Majesty, or his Commissioner in suppressing them.

When the Marquis came to Court, he told the King, that unless he enlarg'd his Instructions, he was to treat no further, for he durst not make use of the former, lest he should expose his Majesty to new Affronts; and propos'd the authorizing the Covenant that by King James's Command was drawn up by Mr. John Craig, Ann. 1580. renouncing all the Articles of Popery, which was the Ground of the present Covenant, as the likeliest Course to settle all things. But the King utterly disrelisht that negative Confession, remembering how his Father resented his rash signing and authorizing it: And it seem'd strange, that so many Negatives should be sworn to, as if Popery must be abjur'd by retail, as well as in bulk; and tyrannical too, to impose such an Oath on Women and simple People, who could not judg of so nice Points. The Marquis own'd all this, and instant'd where the real Presence in the Sacrament was rejected, which he could not sign, without declaring that by *real* he understood *corporal* (which he afterwards accordingly did) But this, he said, was the Idol of Scotland, and nothing to be done without it. He presented likewise to the King a Paper of the Inconveniences that would certainly follow upon the calling an Assembly.

10 *Septemb.* The King dispatch'd his Commissioner back to Scotland with these Instructions; viz. 1. To declare by Proclamation, he absolutely revok'd the Service-Book, Book of Canons, and High Commission. 2. To discharge the Practice of the

*The Marq. advises him to re-new King James's Covenant.*

*The King's Reasons against it.*

*The Marq. gets new Instructions.*

Ann. 1638.

five Articles of *Pent*, and promise that if the next Parliament think fit to repeal that Act, the King will give his Assent. 3. To declare his Majesty hath requir'd the Council to subscribe the Confession of Faith and Bond, subscrib'd and enjoin'd by his Father in 1580, and to order all others so to do. 4. That none shall be exempted from the legal Censures of the Parliament or General Assembly. 5. That he is content the Episcopal Government should be limited. 6. To offer a Pardon by Proclamation, and that it shall be ratified in Parliament. 7. To procure an Act of Council wherein every Counsellor shall declare himself satisfied with his Majesty's Declaration, and (if it can be got) to swear and protest he will adhere to him with his Life and Fortunes; the Counsellor refusing to be remov'd. 8. To require every Lord of the Session to subscribe the said Confession of Faith and Bond, and to make the same Protestation as the Counsellors; and the Refusers Names to be certified. 9. A solemn Fast to precede the General Assembly. 10. To endeavour that the Electors, and Persons elected to be Commissioners at the General Assembly, be the same as in his Father's time, and the same Form to be observed; but if not, yet indict the Assembly. 11. The Time and Place of the Assembly (*Edinburgh* excepted) is left to him. 12. And so is that of the Parliament, which he is to indict presently. 13. 'Tis left to him which he will do first, publish the King's Offers, or indict the Assembly. 14. If the most considerable part of the Council do not acquiesce in the Declaration, and promise their Assistance as aforesaid, nor (if they refuse) a considerable part of other Lords and Gentlemen; then neither to indict Parliament or Assembly, nor publish any of his Offers, except the abolishing the Service Book, Book of Canons, and High Commission: If he foresees a Breach, to give timely notice to the King's Friends, and himself to return to Court. 15. To insinuate to the Ministers the wrong will be done them, if a number of Laicks overbear them in the Elections for the Assembly and afterwards. 16. And to the Lay-Lords and Gentlemen

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how they will suffer, if they let the Presbyters get head upon them. 17. The Forms are left to him and learned Council; but to retain the Substance of these Instructions. 18. To enjoin all to subscribe the Confession of Faith sign'd by his Father. 19. To intimate to the Archbishop of *St. Andrews* (then in *England*) how much his demission of his place of Chancellor would advance his Majesty's Service, and be better for him than if he retain'd it, but by no means to urge him to it: If he be willing to demit, it must presently be done, and the Marquis to treat and agree with him about the consideration; but if he resolve to hold the Place, then to command his repair to *Scotland* presently. 20. To acquaint him and his Brethren, That 'tis probable he (the Marquis) may indict the General Assembly: That his Majesty is content to abolish the Service-Book, Book of Canons, and High Commission: That the five Articles of *Perth* be held indifferent, and Power of the Bishops limited: That if an Assembly be held, his Majesty would have them there to defend their Cause, and that they repair to *Newcastle, Morpeth, or Berwick*, to be at hand to consult with the Marquis upon any Advertisement he shall send them; and notwithstanding in these Instructions the place of the Assembly was left to the Lord Commissioner's choice, yet it was concerted between the King and him, that it should be held at *Glasgow*.

The Covenant now enjoin'd by his Majesty to be subscrib'd, and which was sign'd by King *James*, was the same in effect with the Covenant or Confession of Faith of the Covenanters, which is herein before recited, containing an Abjuration of very many particular points of Popery, and amounting to a negative Confession of Faith; and therefore is omitted here. But the Bond annex'd to it was to this effect: That they considering the strait Link between the true Religion there profess'd, and his Majesty's Estate, having the same Friends and Enemies, and the imminent danger threaten'd to the said Religion, and finding in his Majesty a Resolution to manifest himself that zealous and religious Prince which he hath

14 Car.  
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Instructions  
relating to  
the Bps.

The Cove-  
nant sign'd  
by K. J.  
and now  
order'd to  
be renew'd.

With the  
Bond.



*Ann. 1638.* hath profess'd to be, as well in withstanding the foreign, as in repressing the intestine Enemies thereof, they swear and promise to take part with his Majesty, for diverting the dangers threaten'd to Religion and his Majesty's Estate; and to that end to assemble themselves in Arms, or in quiet manner, as they shall be requir'd by his Majesty, or any impower'd by him; and with their whole Forces to join against all foreign or intestine Powers or Papists, as they should be authoriz'd or conducted by his Majesty, or others having his Commission, for suppressing of Papists, promoting Religion, and settling the People in their Obedience; and to hazard their Lives and Estates in defence of Religion, and his Majesty's Person and Estate, against Jesuits, and Seminary or Mass Priests, to their utter Extermination; to search out all Excommunicates, and other Papists, and declare them to his Highness and his Privy Council, and conform to such Directions as they should receive from them. And that such of them as should be Commissioners in every Shire, would pursue and apprehend all such Papists, Apostates and Excommunicates, as they should receive in Writ from his Majesty: And such of them as are resident within that Shire, would assist the said Commissioners therein with their whole Friends and Forces, and would assist and defend one another in all Quarrels, Actions and Debates, upon account of this present Bond, against all who should offer any Injury or Revenge for the Premises, making his Cause and Part that is pursu'd, all their Parts, notwithstanding any privy Grudge or Displeasure between them, which they will not pursue but by ordinary course of Law; and are content that all such Feuds and Variances, present or to come, be refer'd to seven or five indifferent Friends chosen by his Majesty of their whole number; and that they should not directly or indirectly, for any Suggestion, Advice or Respect, withdraw themselves from the Union and Fellowship of the rest, or wave such Resolutions as by common deliberation should be taken in the Premises.

The Marquis in his return to Scotland met the Bishops at *Ferrybridge*, to whom he signify'd his Majesty's Pleasure, at which they seem'd infinitely troubled, and express'd so much vehemence, as clearly shew'd they were no way satisfy'd with the Marquis; yet they resolv'd to keep the Assembly. The Archbishop of *St. Andrews* seem'd willing, on a good Composition, to quit his Place of Chancellor; and the Marquis offer'd him 2500 *l.* Sterling, with which he was satisfy'd. Hitherto the Marquis had wrestled with the Covenanters only, but now Storms began to arise from another hand. *September 17.* he came to *Holyrood House*, where he found Jealousies beginning to arise between some of the Ministers, and the Lords of the Covenant, concerning the Lay-ruling Elders, which he cherish'd with all the Art he could: He found also the Covenanters were ready immediately to have indicted an Assembly, if he offer'd at any delay; but he first dealt with the Lords of the Council, most of whom seem'd abundantly satisfy'd with his Majesty's Offers. *September 21.* The Covenanters waited on him to know the King's Pleasure; he told them, he was going to acquaint the Council with it, and it would be known at the *Cross* next day: That the King had granted more than they desir'd, and a free Assembly and Parliament should be immediately indicted; and to some of them he frankly imparted the Particulars of what the King had granted: They seem'd well satisfy'd, only press'd him not to renew the Confession of Faith. In the afternoon the Council sat, where the Marquis declar'd to them his Majesty's gracious Intentions towards them: Then the King's Letter was read, being of the same strain with the Instructions. *Traquair* spoke first, and after him ten or twelve more, who express'd their satisfaction to the full. He would then have put it to the Vote; but it being the Confession of Faith they were to sign, some desir'd they might proceed more deliberately. The Marquis protested he would have none sign it, but such whose Consciences were satisfy'd, and who would hazard Life and Fortune in the Prosecution of it; and

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The Bps  
jealous of  
the Marq.

The Cove-  
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The Marq.  
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*Ann. 1638.*  
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*Faith.*

*The Council*  
*satisfy'd*  
*with his*  
*Majesty's*  
*Offers.*

*Proclama-*  
*tion of*  
*Grace.*

*procl. sat*  
*the 9th*  
*of Septemb.*  
*1638.*

and so they adjourn'd till next morning, when some of the covenanting Lords came to him very early: *Rathes* in the name of the rest desir'd the signing of the old Confession of Faith might be put off till Monday, and then they would give good Reasons against it. The Marquis refer'd them to the Council, where they were admitted, and rais'd a Debate of four hours. At length after three hours Debate more among the Counsellors, it was carry'd without a contrary Voice, that the Confession should be presently sign'd, and the Proclamation of Grace publish'd, with another for an Assembly at *Glasgow* the 21st of *November*, and another for a Parliament at *Edinburgh* the 15th of *May* next: Then they pass'd an Act declaring their Satisfaction with his Majesty's Concessions, with a Letter of Thanks to his Majesty.

The Proclamation of Grace, dated at *Orlando* the 9th of *Septemb.* 1638. was to this effect: That the Distractions of late proceeding from the fears of Innovations in Religion and Laws, his Majesty to free his Subjects from the Suspicion that he intends any such Innovations, and to satisfy their Desires and Doubts, doth discharge the Service-Book, Book of Canons, and High Commission, and the Practice of them; and annuls all Acts of Council, Proclamations and other Acts for their Establishment: He dispenses with the practice of the five Articles of *Perth* Assembly, which he is inform'd have bred great Division in Church and State, and discharges all Persons from urging the Practice of them, notwithstanding any thing contain'd in the Acts of Parliament or General Assembly to the contrary: He declares no Subjects who have or shall exercise any illimited and unwarranted Power to be exempt from Censure or Punishment, but ordains them to be liable to the Trial and Censure of Parliament, General Assembly, or other competent Judicatories; and no Oath to be administer'd to Ministers at their Entry, but that appointed by Act of Parliament: And to give full Assurance that he intends no Alteration in Religion he commands the Priuy Council, College of Justice

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Judges, Magistrates, and all other Subjects whatsoever, to subscribe the Confession of Faith, subscrib'd by his Father and his Household in 1580. then by Persons of all Ranks in 1581, and again by all sorts of Persons in 1590. with the general Bond: He requires the Council to take course that both Confession and general Bond be subscrib'd throughout the Realm: Declares he had given his Commissioner Warrant for a General Assembly in *November*, and a Parliament in *May*: Pardons all pass'd Disorders, and enjoins a solemn Fast, to beg from God a Blessing upon that Assembly, an end of these Distractions, and an Aversion of his Judgments.

This Proclamation, with the other two for an Assembly and Parliament, were immediately sent to the Cross at *Edinburgh*, and publish'd; but met there with a Protestation by the Covenanters, which the Council seem'd displeas'd at, yet the Marquis could by no means persuade them to pass a Censure on it as seditious. The Protestation was to the effect following.

*His Majesty's Proclamations protested against.*

That their continual Supplications and Complaints first to the Council, next to the King, then to his Commissioners from time to time, their long Attendance and great Patience for these twelve months, in waiting for satisfaction of their just Desires, aiming at nothing but the Good of the Kingdom, and Preservation of the Kirk, made them to expect a free General Assembly and Parliament, as the ordinary and proper Remedies, and to petition his Majesty's Commissioner to represent such their Desires to his Majesty, which he promis'd to do, especially that for a full and free General Assembly without Prelimitation in the Constitution, Members, Order of Proceeding, or Matters treated of; and that all Questions about these things should be refer'd to the Assembly it self, as the only competent Judges. And now after all these Supplications and Complaints, they having heard his Majesty's Proclamation, are thankful for the least blink of his Countenance, and the smallest Crumbs of Comfort that fall from his Hands, beseeching the Lord to enlarge his Heart for their full satisfaction,

*The Protestation.*

Ann. 1638. faction, and that his Wisdom and Zeal may be a  
 Pattern for all Generations; but that Christ might  
 not thro their neglect or lukewarmness want any  
 part of his Sovereignty, nor they deceive themselves  
 in their Religion with what cannot satisfy, they  
 observe, That his Majesty's Proclamation ascribes all  
 their late Distractions to their fears of Innovations  
 of Religion and Laws, and not to the Innovations  
 themselves, which are the true Causes thereof: That  
 this Proclamation only discharges the Practice of the  
 Service-Book, and Book of Canons, and rescinds the  
 Acts made for establishing their Practice, but doth  
 not rescind the former Proclamations of the 19th of  
 February, and 4th of July, which highly approve of  
 those Books, as fit means to maintain Religion, and  
 beat down Superstition, and declare his Majesty's  
 purpose to bring them into this Kirk in a legal way;  
 so that their Fears that they may be introduc'd here-  
 after still remain, and the Liberty of the General  
 Assembly is prejudg'd thereby. 'Tis declar'd in the  
 Proclamation, that his Majesty intends not to inno-  
 vate any thing in Religion or Laws, nor any altera-  
 tion in Religion; but that the Articles of Perth are  
 establish'd by the Acts of Parliament and General  
 Assembly, and consequently he intends the standing  
 of those Articles, which is another prejudice to the  
 freedom of the General Assembly: And the forbid-  
 ding all unlimited and unwarranted Power, and any  
 other Oath to be given Ministers at their Entry than  
 that in the Act of Parliament, manifestly shew that  
 the Bishops are intended only to be curb'd, but the  
 Office of Bishops to remain; which is evident by  
 the Indictions both of Parliament and General As-  
 sembly, warning them to be present, as having Place  
 and Voice there, which is a third and great Limita-  
 tion put upon the General Assembly. So that this  
 Proclamation neither satisfies their Complaints, nor  
 removes their Fears, nor can be admitted by them  
 without Protestation for these Reasons: 1. To keep  
 silence in any thing that may serve for the good of  
 the Kirk, is against the Word of God, *Isa. 62. 6*  
*1 Kings 18. 21. Acts 29. 29. 1 Cor. 12. 7. Mat. 18.*

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ol. II. be a might at any selves they bes all ovation vations : That of the ds the at doth 19th of rove of on, and Majesty's way ; d here General d in the o inno- y altera- yth are General standing e to the forbid- and any try than ew that but the dent by eral Af- ng Place t Limita- that this ints, nor by them To keep good of ja. 62. d Mar. 19. 18.

18. Rom. 1. 18. Rev. 2. 14, 20. & 3. 15. and not to meddle with Corruptions in a General Assembly convened for that end, were to move the Lord to deny them his Spirit, and to provoke him to wrath. 2. This prejudging the liberty of the General Assembly, is against their Supplications and Protestations, contrary to the Confession of Faith register'd in Parliament 1567. That the Councils of the Kirk are to change what Men have devis'd, and added to their late Confession of Faith, whereby they have promis'd to forbear all Novations till they are try'd. 3. These Limitations are contrary to the Nature and Ends of a General Assembly, wherein whatever may conduce to the good of Religion, and safety of the Kirk, should be propon'd, examin'd and determin'd, without prelimitation of the Matters to be treated, or of the liberty of the Members thereof. 4. 'Tis against the Discipline of the Kirk, which *Book 2. Chap. 7.* declareth, That the Assembly hath power to abrogate all Statutes and Ordinances that are found hurtful or unprofitable, or agree not with the Time, or are abus'd by the People : And the pretended Assembly 1610. declar'd it necessary, that for the common Affairs of the Kirk (without exception or limitation) there be yearly General Assemblies. But what can be hop'd for, if this Assembly, indicted after so long Intermission and so many gross Corruptions, should be limited ? 5. It is ordain'd in Parliament 11. *Act 40. K. James VI.* that the free voting and debating of the Estates shall not be prejudg'd : The like in *Parl. 6. Act 92. K. James VI.* for the Lords of Council and Session ; much more when doth this Liberty belong to the supreme Judiciary Ecclesiastick in matters concerning God's Honour and Worship, the Salvation of Souls, and right Constitution of the Kirk, whose Liberties and Privileges are confirm'd, *Parl. 12. K. James VI. Parl. K. Charles.* And if by *Parl. 12. Act 148. King James VI.* Forestalling or Regrating the things pertaining to this Life be unlawful, much more is this spiritual Forestalling and Regrating, which tendeth to the famishing of Souls. 6. It is contrary to their Pro.



*Ann. 1638.* Protestations and Complaints, and as prejudicial to Religion to admit these Prelimitations, as any one thing else complain'd of.

This Proclamation likewise commands all Persons to renew the Confession of Faith subscrib'd in 1580 and afterwards, and a general Bond for maintenance of the true Religion and the King's Person. But altho heretofore they would have been glad to have subscrib'd the general Confession of Faith against Popish Errors and Superstitions; yet they cannot do it now, nor after they had descended to a more particular Covenant and Confession against the Novations and Errors of the time, return to the general: For that 1. no means have been left unessay'd against their late Covenant: They were first press'd to rescind it, next to alter it in a substantial point; then a Declaration was offer'd, tending to the Enervation thereof, and now they are put to a new Trial, tho in a more subtile way: That by this new Subscription to their late Confession and Covenant, which they swore should be an everlasting Covenant, might be drown'd in the noise of this, and be never more remembered. 2. If they should enter upon this new Subscription, they should mock God; for the Tears they pour'd forth at the solemnizing of their Covenant, are not yet dry'd up, nor is there any necessity upon them for this new Subscription to what was at first an Abjuration of Popery, which it's already known they perfectly hate: This is a playing with Oaths as Children do with their Toys. 3. They should be guilty of Perjury; for this new Subscription and Oath are in the Intention of the Urgers, and the Nature and Condition of the Matter urg'd, the way to extinguish the Bond of their Union and Conjunction; whereas they have sworn not to sever themselves directly or indirectly to be divided or withdrawn from the same, which they have call'd the living God to witness, as they shall answer to Christ in the last day. 4. This new Subscription would be a Confession before the World, that they have made rash Vows against the Particulars abjur'd in their Covenant, and that they prefer the general Confession

before

before that, recanting and undoing what they had done, which would be to lie against God and their own Souls. 5. It hath been often objected, that their Confession of Faith and Covenant were unlawful, because not warranted by publick Authority (tho the less Constraint from Authority and the more Liberty, the less Hypocrisy and more Sincerity) But by this new Subscription urg'd by Authority, they should condemn their former Subscription, alledg'd to be done without Authority, and the like laudable course to be taken by Posterity. 6. Confessions of Faith in this Kirk are like Marchstones upon the Borders of Lands; and the applying them to the present Errors and Corruptions, is not unlike riding of Marches: and to return from a particular to a general Confession of Faith were, if not a removing of the Marchstone, yet a hiding it in the Ground not to be seen, which would be now unreasonable when Popery is so powerful in the Land, and the Papists upon the urging their Popish Service-Book, and Book of Canons, presume upon our return to *Rome*. 7. The Papists would renew their old Objection against us, *Annus & mensuras fides de Deo decernunt*; Our Faith changes with the Moon, or once in the Year: and other foreign Kirks would wonder, that in the same Year our Confession of Faith should come forth larger and more particular, and then shorter and more general. 8. It will confirm their Error, who think they may both subscribe the Confession of Faith, and receive the Service-Book and Canons. If they swear this Confession, they are oblig'd to maintain the *Berth* Articles (which are Innovations) and Episcopacy, with the civil Places and Power of Kirkmen; for they are to swear by the King's Command, whose known and declar'd Mind is, that the Confession be sworn unto for the maintenance of Religion as now profess'd, and that includes the afore-said Innovations and Episcopacy, which under that name was ratify'd in the first Parliament of King *Charles*. Now every Oath is to be taken in the profess'd Meaning and Intention of that Authority which urges it. If it be said, The Counsellors have

Ann. 1638. subscribed the Confession of Faith, as it was profess'd  
 in 1580. It's answer'd, That if they do so, any  
 such thing, it will either be repugnant to his Majesty's  
 Judgement and Command, which is worse than Swear-  
 ing without warrant from Authority; nor it will im-  
 ply that the Religion in 1580. and that at this time,  
 is one and the same, and consequently that there is no  
 Innovation. And by approving the Proclamation a-  
 bout the Oath to be administered to Ministers,  
 which is to swear Obedience to the Diocesan Bishop,  
 and by the Warning for the Archbishops and Bishops  
 to be present, as having Voice and Place in the As-  
 sembly, they should declare that the Confession of  
 Faith as profess'd in 1580. consists with Episcopacy.  
 12. His Majesty in this and his former Proclamations  
 the Privy Council by approving them, and the Pre-  
 lates and Doctors, who stand for the Service-Book  
 and Canons, do affirm, That those Books are not  
 repugnant to the Confession of Faith; nor are Inno-  
 vations of Religion or Laws; and if they (the Pro-  
 fessors) subscribe now, they confess the same; which  
 if they do, tho' the present Books be discharg'd by  
 Proclamation, the same or others with some small  
 change may in a very short time be obtruded on  
 them. 11. Altho' there be no more substantial dif-  
 ference between the Confession they (the Protesters)  
 had subscrib'd, and that subscrib'd 1580. than be-  
 tween a Marchstone hid, and one uncover'd; the  
 Hand clos'd, and the Hand open; a Sword sheath'd  
 and a Sword drawn; the large Confession, and the  
 short Confession; the Old Testament and the New  
 yet as to sheath their Sword when it should be draw-  
 were Imprudence; or at the Will of a Magistrate  
 denying the New Testament to subscribe the Oath  
 alone; after they had subscrib'd both, were Impie-  
 ty for them to subscribe the former Confession again  
 without the Explanation thereof, when theirs is re-  
 jected, and the Subscribers of the former refuse to  
 subscribe theirs; as containing something substantial-  
 ly different, were to deny and part from their former  
 Subscription. 12. If any be so forgetful of his Oath  
 as to subscribe this Confession, as now us'd, he do-

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according to the Proclamation acquiesce in this Declaration of his Majesty's Will, and accepts of a Pardon presented, upon condition of this new Subscription, which were to turn their Glory into Shame, by confessing their Guiltiness. 13. The general Band now urg'd to be subscrib'd, as it contains many Clauses not so fit for this present time, so it is deficient now in a point most necessary, the Reformation of our Lives. 14. The general Band being now chang'd, and some Lines, expressing the Papists and their Adherents to be the Party from whom the danger to Religion and the King's Majesty is threaten'd, being left out, and no Designation made from whom the danger is now threaten'd, they suspect that they (the Protesters) who have entred into Covenant, are understood to be the Party; especially since the Council by their Act ratifying the Proclamation, say they are bound to endeavour, That all his Majesty's good Subjects rest satisfy'd with his Declaration, and they have been challeng'd of Disorders, Distractions and Dangers to Religion, and his Majesty's Authority: And the Council's Offer of their Lives and Fortunes, in repressing such as should disturb the Peace of Kirk and Kingdom, is by many apply'd to them who adhere to their Covenant: So by this new Subscription they should condemn themselves. 15. This new Subscription by the Council and others, will make the Breach widen; some swearing to recover the former Purity of Religion, others maintaining that for Purity which is already establish'd; some professing that in the Confession of Faith the Corruptions are abjur'd, others maintaining the Confession of Faith and these Corruptions not to be inconsistent: Besides which, many Divisions and Subdivisions would ensue, to the doleful renting of the Kirk and Kingdom. And they represent to the Lords of Council, that the Doctrine, Discipline and Use of Sacraments are sworn, and the contrary abjur'd according to the Word of God, and the meaning of the Kirk of Scotland, in the Books of Discipline and Acts of Assembly, no place being left for any private Interpretation.

Ann. 1648.

For these and the like considerations in their own, and the Names of all who will adhere to the late Covenant subscrib'd by them, and seal'd from Heaven, they declare and protest: 1. That the Distractions of the Kirk and Kingdom are not to be imputed to them, nor their needless fears, but to the Innovations and Corruptions of Religion, press'd upon them the People of God, and his Majesty's loyal Subjects. 2. That all Questions concerning the Assembly, whether in the Constitution and Members, or Matters to be treated, or Manner of Proceeding, be remitted to the determination of the Assembly it self; and it shall be lawful for them, being authoriz'd with lawful Commissions, to assemble themselves at the Diet appointed, notwithstanding any Impediment or Prorogation; and against all Qualifications and Predeterminations, to propose, treat, reason, vote and conclude, according to God's Word, Confession of Faith, and Acts of lawful Assemblies. 3. And since Archbishops and Bishops have no warrant for their Office in this Kirk, and none have Place or Voice in the Assembly but those authoriz'd with lawful Commissions; they protest against their Appearing in the Assembly, but as *rei* upon the Complaints made, and to be made against them for their Trial and Censure, in Life, Office and Benefice. 4. They adhere to their Oath and Subscription of the Confession of Faith and Covenant lately renew'd and approv'd, with rare and undeniable Evidences from Heaven, and particularly to the Explanation and Application, containing their Abjuration of the Corruptions of the times. 5. They will not themselves, nor urge any others to subscribe any other Confession or Covenant, especially that mention'd in the Proclamation, without the Explanation and Application already sworn to by them; and they appeal therein to the next free General Assembly and Parliament. 6. That no Subscription by the Council or others to the Confession mention'd in the Proclamation, be prejudicial to that Covenant, which they (the Protesters) have sworn to, nor any Derogation from the true meaning of their Predecessors

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fors, who subscrib'd the same in 1581. and afterwards; warning all to subscribe their Covenant, as explain'd and apply'd, and no other, till the next Assembly determine the Matter. 7. They protest they will adhere to their former Complaints, Protestations, lawful Meetings, Proceedings, mutual Defences, &c. occasion'd by so many Grievances in his Majesty's absence from this his native Kingdom.

Whereupon *James* Earl of *Montrose* in the name of the Noblemen, others in the names of the Barons, Burroughs and Ministers, and Mr. *Archibald Johnson* Reader hereof, in name of all who adhere to the Covenant, took Instruments in the hands of three Notaries present at the Mercate Cross at *Edinburgh*, and crav'd the Extract thereof, and with submissive reverence offer'd a Copy to the Herald.

The Proclamation for a General Assembly was dated *Septemb. 22.* and was to this effect: That his Majesty out of his pious Disposition to the true Religion, and to remove all Doubts and Fears in the minds of his Subjects, hath order'd a free General Assembly to be held at *Glasgow* the 21<sup>st</sup> of *November* next: And the Lords of the Council require all Macers and Officers of Arms to make publication thereof at *Edinburgh*, the Head-boroughs, &c. and to warn Archbishops, Bishops, Commissioners of Kirks, and others having Place and Vote in the Assembly, to attend the said Assembly till dissolv'd. The Proclamation for a Parliament to be held the 15<sup>th</sup> of *May* at *Edinburgh* was the same date, and express'd the same Motives with the other; only there it was to warn all Noblemen, Prelates, Commissioners for the Barons and Burroughs, and all others having Voice and Place in the said Parliament, to attend, &c.

*Proclamation for a General Assembly,*

*And Parliament.*

An Act of the Privy Council was likewise published at the Market Cross at *Edinburgh*, &c. reciting his Majesty's Warrant of the 9<sup>th</sup> of *September* requiring them to swear to the Confession and General Band therein-mention'd, and to take Order for others to subscribe the same, and that they had sworn and subscrib'd the said Confession and General

*Act of Council for swearing the Confession and General Band.*



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Band accordingly: They ordain'd therefore that all others should swear and subscribe the same. In the other Act of Council which they pass'd about his Majesty's Concessions, they recited the Heads of his Proclamation for annulling the Service-Book, Book of Canons and High Commission, discharging the pressing of *Perth* Articles, making all Persons Ecclesiastical and Civil liable to Trial and Censure, about the Oath to be taken by Ministers at their Entry, for renewing the Confession of Faith and Band for Indiction of an Assembly and Parliament, and of a Fast, and forgiving what is past: All which they declar'd to be fully satisfactory, for removing all Fears of Innovation of Religion or Laws, promise to use their best Endeavours that all others may be satisfy'd therewith, and offer his Majesty their Lives and Fortunes in defending his Person and Authority in the maintenance of the aforesaid Religion and Confession; and in repressing the Disturbers of King and Kingdom: And to all this the Council subscribed.

3 Letters  
of Thanks  
for the  
King's  
Concessions.

Three Letters of Thanks were sent; one to his Majesty, and two to the Marquis upon this occasion. That to the King was from the Privy Council of Scotland, wherein they acknowledg his extraordinary Favours and Grace vouchsafed to their Nation: They profess such Acts of Clemency could not proceed from any Prince but him, who is the lively Image of the great God: They with all imaginable Reverence render his Majesty their bounden Thanks, and offer their Lives and Fortunes in seconding his Commands, and in repressing the Disturbers of the King and Kingdom: That they all without the least shadow of scruple subscrib'd the Confession of Faith and Band, and they beseech him to be persuaded of their inviolable Devotion of all the Subscribers. The other two, dated *Septemb. 24.* to the Marquis, was one of them from the Provost, Bailiffs and Council of *Glasgow*, to this effect: That having heard his Majesty's Proclamation, which was that day published there to their great Joy, they could not but praise God, who had endu'd his Majesty with

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Wisdom, Piety, Clemency, and fatherly Care of *Gr. Car.* that Church and Kingdom: They pray for the long and happy Reign of him and his Posterity, and that his Graces great Pains may obtain the wish'd for end. The other was from Ten of the Ministry and University of *Glasgow*, who express their Joy for the Proclamation, and praise God for his Majesty in the same Terms, as the Provost and Bailiffs did, and conclude with the like Compliment to the Marquis.

Commissions were then given out for the Shires *Commissi-* to get Subscriptions to the Confession of Faith; and *ons to take* the Earl of *Rothes* and other Covenanters were *Subscripti-* join'd in the Commissions, which was censur'd by *ons.* many, and by the King himself, till he understood the reasons, but was then fully satisfy'd: most of the Counsellors were for it, for that it gave those Lords an Opportunity of retreating, if they would; it confirm'd the King's Indemnity to be real, when such Persons were so soon trusted; it would raise some jealousy in the other Covenanters against them. And the People when they saw those Names in the Commission, would be persuaded the thing was design'd in earnest; upon these Grounds the Marquis yielded thereunto.

The next Work of the Marquis was to preserve *Episcopacy* Episcopacy, which was in visible hazard, the most *in hazard.* ill affected to it being every where chosen Commissioners for the Assembly; of this he advertis'd the King, and desir'd him to go on with his Preparations, and that according to his former Resolution (because Soldiers could not be levy'd in *England* without a direct Breach) 1500 might be levy'd in the Prince of *Orange* his Name in *Holland*, and suddenly shipp'd and landed at *Berwick* for securing that Place: And in the mean time, that the Covenanters might take no Umbrage, the Magazine design'd for *Hull* might remain in the Tower. To which, *October 20.* his Majesty return'd this Answer: That he saw the Malignity of the Covenanters was greater than ever, so that if he (the Marquis) and his other true Servants did not use extraordinary

*The King's  
Letter.*

Ann. 1638.

ordinary Care and Industry, his Affairs were likely to grow worse: That this last Protestation is beyond all they have done, and can be judg'd no less than Treason. He thinks if the College of Justice hath sign'd his Covenant, it were not impossible to get them to do him Justice therein; for until at least the Adherers to this last Protestation be declar'd Traitors, nothing will go right there. He believes not the number of those against Episcopacy to be so considerable as the Marquis takes them to be; and tho he expects no good from this General Assembly, yet he hopes the Marquis may hinder much of the ill, by causing Divisions among 'em concerning the Legality of their Elections, then by Protestations against their tumultuous Proceedings; and it would not be amiss to get their Freedom defin'd before their meeting, so it be not too much in their Favors: He would have their Propositions for the Assembly sent to him: He hath seconded his Letter to the Mayor of *Newcastle* for freeing the Horses, and stopt the Provisions for *Hull*.

A pretended Prophetess.

Two Stories were much talk'd of; the one about one Mrs. *Mitchelson* a zealous Covenanter: She was troubled with Vapors, and spoke in Raptures, most of which were about the Covenant, and inveigh'd severely against the late Act for signing the Confession of Faith; her Words were recited as Oracles coming from a Person inspir'd by God; People of the best Quality came to see her in her Fits; she was by many call'd an Impostress, but others who understood Nature better, knew the root of her Distemper, which afterwards abated. The other was of one *Abernethy*, who from a Jesuit Priest turn'd a zealous Presbyterian, and reported that the Scotch Liturgy was sent to *Rome* to be revis'd by some Cardinals; and that Signor *Con* had shew'd it to him there: But the Marquis writing to *Con* (then at *London*) about it, *Con* protested he never heard of such a Liturgy, till he came last to *England*; and had never seen *Abernethy* at *Rome* but once, and finding him light-headed, took no further notice of him.

A Jesuit turns Presbyterian.

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him. But the Story at that time took wonderfully, and gain'd an easy belief.

September 24. A new Debate arose in the Council; for some of them whose Hearts were with the Cove-

14 Car.

A new Debate in Council.

nanters, mov'd to have it declar'd, That matters of Discipline and Ceremonies were points of Faith, but it was carry'd in the Negative. The Marquis his next care was to write to all the King's Friends through *Scorland*, to get the Proclamation publish'd, and the Confession of Faith subscrib'd to, and to take care of the Elections of the Commissioners for the Assembly. The Marquis of *Huntley* and the Doctors of *Aberdeen* express'd great Zeal for the King's Service; but the Doctors, tho the only Persons fit to undertake the Defence of Episcopacy, were wholly averse from coming to *Glasgow* to the Assembly. In the mean time the Tables were setting Prelimitations on the Assembly, by sending out Orders about Lay-Elders, and that none should be chosen save Covenanters; and the Marquis of *Hamilton* went home to *Hamilton*, to get those of *Cliddisdale* to sign the Confession, but met there with great Difficulties about it, some of which he overcame. And having acquainted his Majesty with these things, his Majesty *October 9.* answer'd, That he did not expect such Opposition, when he (the Marquis) had overcome a greater difficulty, the peevishness of the Council; he doubted he did not make so much Opposition against the Protestation as it deserv'd, seem'd much dissatisfy'd that the Covenanters were put into the Commissions for procuring Subscriptions to the Bond, which will make them oppose his Service with a Shew of Authority. But this he will confidently affirm, that until most of the Council express themselves vigorously, in detestation of this last damnable Protestation, no Obedience is to be look'd for. He conceives now the Pretext of Religion is fully satisfy'd: he need not conceal his Preparations from the Covenanters, his greatest danger being to make them imagine he cannot or dare not maintain his own Authority. But the King was afterwards well satisfy'd with the Reasons the Mar-

The King's Proclamation publish'd over Scotland.

The King's Letter.

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Ann. 1638.

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shop and  
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quiss sent him, why the Covenanters were put into those Commissions.

The Covenanters did all they could to dissuade the People from signing the Confession, pretending the King did but abuse them, and intended not the performance of any thing he had promis'd, and that it was Perjury for such as had taken the Covenant, to swear to the Confession; and this took universally with the People. In the Elections for the Assembly the Ruling Elders being Men of Power, carry'd the Elections as they pleas'd; for there being an Elder out of every Parish, they equall'd the Ministers in number, but exceeded them at the Election, for that the Ministers on the List (being ordinarily six or seven) were excluded from voting. The Marquess seeing how the Elections were carry'd, begun to draw up the Nullities of the Assembly, and sent them to the King as he had them, advising him to go on with his Preparations, for to prevent a Rupture was impossible. The King's Proclamation met in some places with Protestations. And most of the Counsellors were remiss in procuring Subscriptions; yet there were in all 28000 Subscribers, of which number the Marquis of Huntley procur'd 12000. The Bishop and Doctors of Aberdeen subscrib'd the Confession and general Bond enjoind by the King, and presented to them by the Marquis of Huntley; but with these seven Restrictions. 1. They abhor all Errors truly Popish or repugnant to the Scripture, and consequently to the re-form'd Kirks, and their National Confession 1567. 2. They abjure not Episcopacy, as it was in or after the Apostles Days for many hundred Years, and as now in Scotland. 3. Nor the five Perth Articles, nor any lawful thing of that sort. 4. They hold to that Clause of their National Confession, Chap. 20. Art. 21. that General Councils, and consequently the Kirk of Scotland, cannot make any perpetual Law which God hath not made before. 5. By adhering to the Discipline of the Reform'd Kirk of Scotland, they mean not any immutability of that Presbyterial Government which was Anno 1581. or of any other

other humane Institution, but only that the Jurisdiction and Discipline of the Kirk of Scotland doth not depend on the Pope. 6. Nor do they prejudg the Liberty of the Kirk of Scotland to change and reform some ambiguous and obscure Expressions in the said short Confession. 7. They lay no further Bond upon their Posterity than the Word of God doth; but lest from their Example an humor of annexing Explications might have run through the Kingdom, the Marquis of *Huntley* kept this secret, and sent up their Subscriptions in a Bond apart. From all Places Subscriptions were brought except *Argyleshire*, the Earl of *Argyle* alledging, that since the Assembly was so near, all desir'd to be excus'd till they had determin'd the Point: this confirm'd the Jealousies had of that Lord.

*Argyle-shire refuses.*

The Marquis of *Hamilton*, with the Advice of such as he durst trust, drew up the Method he intended to proceed in at *Glasgow*, and sent it to the Archbishop of *Canterbury*, to be communicated to his Majesty; whom he advertis'd likewise how earnestly the Bishops press'd him to prorogue the Assembly; with his own Opinion, that if it were prorog'd it would strengthen the Jealousies the Covenanters had spread, that the King intended not to observe what he promis'd: he fear'd in such case most of the Council would desert him; and the Covenanters would notwithstanding his Prorogation, keep the Day at *Edinburgh*. He judg'd it therefore fitter the Day should be kept, his Majesty's Offers propos'd, next the Nullities of the Elections examin'd, and then the Bishops Declinator tender'd: By which time they would give too good Grounds for a Dissolution. But if they were now prorog'd, a present Rupture would be unavoidable. To this the King answer'd, *October 29.* That he should, by the Archbishop of *Canterbury*, receive an Answer to all his Propositions touching the Assembly: That he utterly dislik'd the Clergy's Opinions to prorogue them, for he should thereby more hurt his Reputation, than their mad Acts could prejudice his Service. He commands him to keep the Day and then break them,

*Advice to prorogue the Assembly.*

*The King's Letter about it.*



*Ann. 1638.* them, if he can by proving Nullities in their Proceedings. The Assessors Names he lik'd.

*The Bishops cited by the Covenanters to appear before the Assembly.* The Earl of *Rothes* with the other Covenanters, petitioning for a Warrant to cite the Bishops to appear before the Assembly, the Marquiss deny'd it, as without a Precedent; for it was enough he did not protect them against a fair Trial: whereupon they got a Warrant from the Presbytery of *Edinburgh*, wherein all the Bishops were cited as guilty of Heresy, Simony, Perjury, Incest, Adultery, Fornication, Breach of the Sabbath, &c. to which was added *respectively*; which Law-term not being understood by the Vulgar, they verily believ'd them all guilty of those Crimes. This was read the Sunday Morning in the College Church of *Edinburgh* (tho the Marquiss on Saturday Night sent to them under Pain of Treason to forbear) and was afterwards read in all the Churches over *Scotland*: they sent also Orders throughout all *Scotland*, to search into the Bishops Conversations.

*The Session sits, and most of them subscribe the King's Covenant.*

*Edinburgh-Castle in the King's Hands.*

*November 1.* The Session sat down at *Edinburgh*, where the Marquiss got Nine of the Fifteen to subscribe the Confession of Faith and Bond; Two being absent, and Four refusing: but the Confession was so odiously represented by the Ministers, that the Subscribers hardly durst walk the Streets.

The Earl of *Marre* for 2000*l. Sterling* resign'd the Castle of *Edinburgh* to the King, and the Archbishop of *St. Andrews* for 2500 *l. Sterling* resign'd the Place of Chancellor; for both which Sums the Marquiss gave them security out of his own Estate. He press'd the King for 10000 *l. Sterling* to be distributed among the Bishops and other Ministers, who were then Sufferers; but the King not supplying them, the Marquiss reliev'd them in all their Straits, there being no Money in the Exchequer. The King by his Letter of *November 8.* acquainted him, that he hop'd to secure *Berwick* and *Carlisle* before *Christmas*; but the way by the Prince of *Orange*, he found impracticable. He approv'd also of the Person the Marquiss had recommended to command in *Edinburgh* Castle, which was the famous General

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*Abridg'd and Improv'd.*

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*Ruthwen*, return'd from the German Wars. The Marquis visit'd the Castle, but found it in an ill Case; but one Musquet in it, and that not serviceable, very little Poudre, and not a Yard of Match; nor could he find an opportunity to furnish it with Men, Victuals, and Arms, for the Covenanters had set Guards about it; and *Ruthwen* would not go to it till better provided; so the former Captain staid in it, having first given his Oath, not to surrender it but with his Life.

The Bishop of *Ross* return'd from London, and brought with him the King's Letter to the Marquis, dated October 24. and the Bishops Declinator revis'd by the King, with several Observations, and Amendments with his own Hand: and the Marquis having all his Directions (not so much as the Speech he was to make in the Assembly, but was sent up, and return'd amended by his Majesty) he resolv'd for *Glasgow*; but first declar'd in Council, That his Majesty would have Episcopacy limited but not abolish'd, and deliver'd them the King's Letter, commanding them to follow him to *Glasgow*, and requir'd the King's Advocate to prepare himself to defend Episcopacy to be according to the Laws of Scotland. But the King's Advocate briskly answer'd, That it was against his Conscience to do so, and that he judg'd Episcopacy contrary to the Word of God, and to the Laws of that Church and Kingdom. The Marquis threaten'd him with taking his Place from him, but he answer'd, His right to it was ratify'd in Parliament: The Marquis then commanded him not to come to *Glasgow*, which he obey'd.

November 17. The Marquis came to *Glasgow*, where that Night he receiv'd a Letter from the Bishops of *Ross* and *Brechin*, in the Names of themselves and their Brethren, thanking him for taking such care that their Protestation be orderly done, secretly kept, and seasonably presented; That they had given Dr. *Hamilton* their best Directions, who was order'd a Deputation to appear for them at the Assembly upon their Declinator, and to whom they recom-

14 Car.

*Ruthwen* nam'd for Governor of the Castle.

The Bishops Declinator revis'd by the King,

Who declares he would have Episcopacy limited, not abolish'd.

The King's Advocate against Episcopacy.

The Marquis comes to *Glasgow*. Letter to him from the Bishops.

*Ann. 1638.* recommended the Care of having it timely presented, but in that they only trusted to his Grace. A Letter from his Majesty also found him at *Glasgow*, wherein his Majesty desired that in the Paper of Concessions the Marquis was to offer the Assembly, it might not be expressed that he was pleased to dispense with the Practice of the five Articles of *Perth*, as if he desired the abolishing in *Scotland* what he approves and maintains in *England*. He therefore judge'd the word Content might serve their turn. At *Glasgow* the Marquis met with a very great Confluence of People.

*The Assembly sits.* November 21. The Assembly after Sermon sat down; not a Crown amongst them all, but many had Swords and Daggers. They would have begun with the Choice of a Moderator; but the King's Commissioner (who sat in a Seat eminent above the rest, with his Assessors about him somewhat lower) told them there was something else to be done before that. His Commission was then first read, dated *July 29.* last, and afterwards the King's Letter to the Assembly, dated *October 29.* last, to this effect: That altho the best of his Actions had been mistaken, as if he intended Innovation in Religion and Laws; yet forgetting what is past, to satisfy his Subjects of the Reality of his Intentions for the establishing the Truth of Religion, he had indicted a free General Assembly, and appointed his Commissioners to attend the same, from whom they were to expect his Pleasure, and to whom they were to give Obedience; assuring them of his Consent to what his Commissioner should promise in his Name.

*The Marquis's Speech to the Assembly.* The Marquis then made a Speech to the Assembly. He said, he hop'd that as great (and the worst) part of mens Spirits had been evaporated into bitter and invective Speeches, so the better part of them was reserved for Deeds answerable to the Professions that had been made. As for those his Majesty had made, he was come there to make them good to his People, whom he finds grieved with Miscalceits of his Intentions concerning Religion. And his Majesty desired, That before this Assembly proceed to any thing else, his Subjects may receive ample Satisfaction.



those Points, wherein his Intentions have been mis-  
 doubted. Two Aspersions there have been especially;  
 the one, that his Majesty had some (if not Intentions  
 yet) Inclination to some Innovations in Religion;  
 which Thought none can now any longer harbour,  
 when his Majesty hath commanded that Confession of  
 Faith (call'd the negative) to be subscrib'd by all his  
 Subjects. The other, That nothing promis'd in his  
 last most gracious Proclamation (tho most ungra-  
 ciously receiv'd) was ever intended, nay not the As-  
 sembly, but time only was to be gain'd till his Ma-  
 jesty might by Arms oppress this his native Kingdom;  
 than which Hell could not have rais'd a saller Re-  
 port. For the Assembly this day confutes that Ca-  
 lumny. And for the other things in the Proclama-  
 tion, his Majesty hath commanded him to let them  
 know, he hath granted all their Petitions, Remon-  
 strances and Supplications; and desires his Subjects  
 may be assur'd of them by Acts of this Assembly,  
 and afterwards by Acts of Parliament. And there-  
 fore his Majesty would have all the Particulars he  
 hath promis'd, first got in hand with and enacted,  
 and afterwards such reasonable things as his Subjects  
 shall desire, hoping they will correspond in dutiful  
 Obedience, and cheerful, but calm and peaceable  
 Proceedings in this Assembly. And that there be no  
 mistake, he tender'd to them a Paper from his Ma-  
 jesty, containing his Concessions mention'd in his last  
 Proclamation for discharging the Service Book and  
 Book of Canons, declaring no other in that kind  
 should be introduc'd, but in a legal way of Assem-  
 bly, allow'd by Act of Parliament. And find-  
 ing his Intentions in establishing the High Commis-  
 sion (which was for promoting Justice) to be mista-  
 ken, he discharges the same, declaring, neither that  
 Court, nor any other of that nature, shall be intro-  
 duc'd but in the way allow'd by Law. He dis-  
 penses with the Practice of the five Articles of  
 Perth, and forbids any other Oath to be requir'd  
 of Ministers at their Entry, but that set down in the  
 Act of Parliament. He assures them of General As-  
 sembles as often as the Affairs of this Kirk shall re-  
 quire;

The King's  
 Concessions.

Ann. 1638.

quire; and indicts another General Assembly after this, to be holden at *Glasgow*. Declares the Bishops shall be censurable according to their Demerits by the Assembly, and is pleas'd it be so enacted by this Assembly, and ratified in Parliament. And to manifest the Reality of his Intentions as to Religion, he hath commanded all his Subjects to subscribe the Confession of Faith subscrib'd by his Father Anno 1580.

The Bps  
advise the  
Marquiss  
how to pro-  
ceed in the  
Assembly.

The Marquiss sent to advise with the Bishops, then in the Castle of *Glasgow*, about his way of proceeding in the Assembly; in answer whereunto he receiv'd a Letter from the Bishop of *Ross* to this effect: 1. He advises the Marquiss to produce to them the King's Letter directed to the Archbishops, Bishops and Ministers; and if it be objected, that no Moderator being chosen, they are not a compleat Assembly, it may be answer'd, that possibly the King's Letter contains somewhat about that Election, and therefore is to be read, and mark'd produc'd. 2. Concerning the Commissions and Commissioners to the Assembly, tho' they are utterly illegal and null, yet if they should be rejected, the King will be censur'd, as if he had deluded his Subjects: on the other hand, if his Grace approve the Commissions and Commissioners, he leaves it to him to conceive how much the Church may suffer. 3. He and the Bishops were of opinion, That their Declinator is to be presented at first before the Assembly he established: First, because all Declinators are us'd so; next, if the Assembly be once established, how can it be declin'd? That therefore after the reading and marking the King's Letter, their Declinator be presented, read, marked, produced, and Instruments taken thereupon, then his Grace to make a short Speech, excusing himself that he was not so well acquainted with the Formalities and Legalities of Church-meetings; and seeing in such Distractions and Combuſtions all things cannot be done in an orderly way, his Grace would rather adventure upon Errors in Form, than to leave so necessary a Work undone: and there being no Archbishop or Bishop present, he permits them

chuse a Moderator, and will not fall upon the Examination of Commissions or Commissioners. The next thing after choice of a Moderator, is to get the King's Letter and their Declinator register'd in the Books of the Assembly: then to be careful nothing be propos'd till what is in his Majesty's Declaration be enacted, and if (this being done) they fall upon any Extravagancy, he may then declare that he and the Council must examine their Commissions and Commissioners, and discuss the Relevancy of the Declinator. This Course will manifest his Majesty's pious Intentions, his Grace's sincere affection to Religion, preserve their (the Bishops) Right, render the Assembly inexcusable, and give him ground to discharge their Meeting under pain of Treason.

There were about 260 Commissioners, and from every Presbytery two, three, four or more Assessors, who were to advise, but not vote, which made a great number. Some Commissioners could neither read nor write, and yet these were to judge of Heresy, and condemn *Arminius's* Points. The Marquis would have had them before the Choice of a Moderator, to examine the Elections; but he soon found he could not run far with them, for they were resolved stoutly to disobey, and some private Threatnings there were to seize his Person, and such of the Council as should withstand them. Of all this he gave the King an account by Sir *James Hamilton*, with the Characters of all the Counsellors; advis'd the King to secure *Berwick* and *Carlisle*, to send a Fleet into the *Frith*, and other places, to block up their Trade, to come down with a Royal Army, and to grant Commissions of Lieutenancy to Marquis *Huntley* for the North, and the Earls of *Traquair* and *Roxburgh* for the South. He shew'd the King how the Bishops had miscarried, that their Ambition had been great, and their Folly greater. To which the King answer'd, he totally agreed with him, both in the Characters of the Men, and in his way to reduce them to Obedience; only the time when to begin was considerable: That he had sent back the honest Bearer, fully instructed with the State of his Preparations; and

*The Constitution of the Assembly.*

*The Marq. gives the K. an account of Affairs.*



Ann. 1638. and he meant not to trust in these Affairs any other than himself.

The Proceedings of the Assembly. The Marquis mov'd the Assembly to read the Bishops Declinator, presented by Dr. *Hamilton*; but they said they must first be constituted: upon which he protested, and took Instruments. The Assembly then proceeded to the choice of a Moderator, which before the Marquis gave way to, he enter'd a Protestation, That it should not prejudice the King's Prerogative, or Laws of the Kingdom, nor bar the King from taking exceptions to the Person elected, or Irregularity of his Election: So they chose Mr. *Alexander Henderson*, *nemine contradicente* except Dr. *Hamilton*. Then they unanimously chose for their Clerk Mr. *Archibald Johnston*, the Clerk Register for their Tables, and Clerk of their Tables at *Edinburgh*; against whose Election the Marquis likewise protested. *Johnston* declar'd his Unwillingness to accept the Charge, yet he would not be wanting to contribute his part toward the Defence of the Prerogative of the Son of God. The next Day they spent in reading the several Elections of Commissioners; but the Marquis enter'd another Protestation to take exceptions against their Elections in his own due time, yet for the present he was contented they should go on.

Mr. Henderson chosen Moderator, & Archibald Johnston Clerk.

Debate about Elections.

Six Assessors to the Assembly nominated by the K.

The Bps Declinator read,

And rejected.

The King had nominated for Assessors to his Commissioner, the Earls of *Traquair*, *Roxburgh*, *Argyll*, *Lauderdale*, and *Southesk*, and Sir *Lewis Stuart*; but they refused to let them have any Voice; whereupon the Marquis took Instruments. *Novemb. 27.* The Bishops Declinator was read; which done, the Marquis shew'd the Necessity of it, and the Strength of the Reasons therein given, and was for the depressing their Libel against the Bishops, which he call'd infamous and scurrilous: but the Declinator was rejected, and the Moderator deplored the Obstinacy of the Bishops Hearts, who in all the Declinator had the no sign of Remorse for their wicked Courses; one *Gibson*, a Clerk of the Session, thunder'd out a verbal Protestation, That they would pursue their Libel against the Bishops, so long as they had Lives & Fortunes. The Marquis protested against this Protestation.

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station, and discharg'd the Bishops Proctor from appearing for the Bishops before the Assembly : And the Marquis perceiving they intended to keep up their Tables, all disorderly Elections being approved, and no Nullities admitted, on the 28th he call'd the Council together in the Chapter-house, told them he was necessitated to dissolve the Assembly, gave his Reasons for it, and desired their Concurrence, and Advice about the manner of doing it, without any Debate whether it should be done, for as to that his Instructions were clear and positive. But no clear Advice being gotten from them, he went to the Assembly, where he sat long a witness to their Debates. At length, when it was offer'd to be put to the Vote, whether they were a free Assembly notwithstanding the Bishops Disclaimator, he rose up, and spoke to this effect :

*The Marq.  
resolves to  
dissolve the  
Assembly.*

That he had cause of Joy in making good what hath been promis'd, but of Sorrow that he cannot further make known his Majesty's pious Intentions. His Majesty hath granted them (what they called for) a General Assembly, free on his part ; but as they have handled the matter, not the least shadow of Freedom remains. They have in their Protestation charged his Majesty's Proclamation in the point of Prelimitations ; but whether their Elections of the Members of the Assembly be not Prelimitations, and strong Bars against the Freedom of it, and induces many Nullities, will be made manifest : and yet if they can find a way, how what his Majesty hath promis'd in his Proclamation may be perform'd in this Assembly, without his Majesty's approving the Illegalities and Nullities of it, he is ready to do it. After this he caus'd the King's Concessions (as before proclaimed) to be read, upon which he took Instruments, that by producing and signing those Concessions his Majesty's Intentions were made known ; next, that by producing and delivering them, the Lawfulness of the Assembly was not acknowledg'd : and then he went on. He said, he was sorry he could go with them no further : For neither Ruling Elders, nor any Ministers chosen by them, could have Voice there, no

*His Speech  
to them.*

Ann. 1638. such Election being warranted by Law; there being at every one of those Elections more Lay-Elders that gave their Votes than Ministers, which likewise is contrary to the Book of Discipline: But admit there was a Law for Lay-Elders, yet the Interruption of its Execution for above forty years, makes a strong Prescription against it, without reviving it by some new Order from the General Assembly. To say nothing of the Office of Lay-Elders, unknown to the Scripture or Church of Christ for above 1500 years, how can these Laymen be fit to vote in inflicting the Censures of the Church, especially of Excommunication? none having power to cast out of the Church by that Censure, but those who have power to admit into the Church by Baptism. And are all the Lay-Elders here present fit to judg of Predestination, Universality of Redemption, Election, Reprobation, and other deep Mysteries, which they must debate, if they mean to determine against *Arminius*, as they give out they will? In many Presbyteries these Lay-Elders disagreed in their Elections from the Ministers, and carried it by number of Votes; and how can these now elected be thought fit to be Ruling Elders, who were never Elders before, but chosen since the Indiction of the Assembly, and some of them the very Day of the Election of the Commissioners, merely to serve their turn? The Lay-Elders are, by their own Principle to watch over the Manners of the People in the Parish wherein they live; but how can that be, when the Person chosen a Lay-Elder is no Inhabitant within any Parish of that Presbytery? Was it ever heard before, that young Noblemen, Gentlemen or others being yet Minors, and in construction of Law unable to manage their own Estates, should be chosen Ruling Elders of the Church? By what Law can any Ruling Elder be sent to a Presbytery to vote for choosing Commissioners for the General Assembly, who was not chosen for that purpose by the Session of that Parish, in which he is a Ruling Elder? or for the Ministers to bring with him to the Presbytery for that purpose a Ruling Elder of his Parish whom he pleas'd, as is now done in the choice of some Commissioners now



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sent, who therefore have no Vote here? This intro-  
ducing of Ruling Elders is a burden so grievous to the  
Ministry, that divers Presbyteries have protested a-  
gainst it: For the Ministers chosen Commissioners  
hither, the fittest are pass'd by, and some chosen who  
are ignorant of the nature of this Assembly, others  
who are under the Church's Censure, others who  
have been deprived, others who were banished from  
the University of *Glasgow* for teaching the Scholars  
that Monarchies were unlawful, others banished the  
Kingdom for Sedition, others out of *Ireland* for the  
like Offences, others under Excommunication, others  
having no Ordination, others admitted to the Mi-  
nistry contrary to the standing Laws, others at the  
*Horn*, and so incapable of sitting in any Judicatory;  
and all these chosen by Lay-Elders: What a scandal  
were it to the Reformed Churches, to allow this a  
lawful Assembly? Three Oaths are to be taken by the  
Members thereof; the Confession of Faith lately renew'd  
by his Majesty's Command, and the Oaths of Allegiance  
and Supremacy; and he bid them resolve presently,  
whether they would take them or not. He said,  
they had cited the Bishops to appear before them by a  
way unheard of in the Pulpits, nay after the Cita-  
tions had been deliver'd into many of the Bishops  
own hands: How can his Majesty admit those to be  
their Judges, who hold Episcopacy it self to be ab-  
jur'd by their Covenant, and declare in their last Pro-  
testation, that it is an Office not known to this King-  
dom, tho establish'd by Acts of Parliament and Ge-  
neral Assemblies? Who ever heard of Judges that  
have sworn themselves Parties? For tho in funda-  
mental Points the Orthodox Bishops heretofore were  
allow'd competent Judges of the Hereticks, tho they  
had declar'd their Judgments against their Heresies,  
for that no man ought to be indifferent in those Points  
of Faith which concern his Salvation; yet in mat-  
ters of Church-Government (which in the twenty  
first Article of their Confession is judg'd to be alte-  
rable at the will of the Church) it is not only not  
necessary, but unlawful for any man who means to be  
Judg of that Government establish'd by Law, to

*Ann. 1638.* declare himself before-hand against it, which the Protesters have done, since they mov'd to be the Bishops Judges; nor did those Orthodox Fathers declare against the Hereticks Persons and Callings, by Oaths and Protestations, as these had done. He told them, that this Assembly standing as it doth, it is impossible to reap the Fruits so much wish'd for; and it will make this Church ridiculous to the Adversaries of their Religion, grieve their Neighbour Reform'd Churches, and make his Majesty's Justice be traduc'd, if he should suffer his Subjects to be try'd by their sworn Enemies. But if they would dissolve themselves, and amend these Errors in a new Election, he would intercede for the Indiction of a new Assembly: If they refuse this Offer, his Majesty will declare them to the World Disturbers of the Peace of Church and State, by introducing Lay-Elders against Law, and going about to abolish Episcopacy establish'd by Law; two Points which those they drew into their Covenant never suspected at first would be the issue of their falling off from their Obedience to their Sovereign.

*Mr. Henderson's Speech.*

*Mr. Henderson* made a long Speech, magnifying the King's Authority in matters Ecclesiastical, calling him the Universal Bishop of the Churches in his Dominions; but in the end said, that we must render to God the things that are God's, as well as to *Cæsar* the things that are *Cæsar's*; and spoke much for vindicating their Proceedings, and charging the Bishops: After him many Lords spoke about the Freedom of the Assembly. The Marquis reply'd That as to that, altho they had refus'd to hear of any preparing of matters before the Assembly, acknowledging it could not be free where there was any Prelimitation of Chusers, or of those to be chosen, or of Matters to be treated of; yet there were sent from the Tables four Papers of Instructions, containing Prelimitations repugnant to the Freedom of an Assembly; two of these Papers (which were their secret Instructions) the Marquis caus'd to be read but the Members of the Assembly disown'd them. The Marquis answer'd, That the Elections being order

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order'd according to those Instructions, was a Proof that they issu'd by an Authority which all of them obey'd. He protested, one of his chief Motives for dissolving the Assembly, was to deliver the Ministers from the Tyranny of Lay-Elders: And accordingly he dissolv'd the Assembly, and forbid their further Proceeding under pain of Treason. Mr. Henderson and the Earl of *Rothes* told him, they were sorry he left them, but they had done nothing amiss, nor could desert the Work of God; protesting their Obedience to the King in its due Line and Subordination: after which they began to read a long Protestation.

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But the Marquis presently went out, and calling a Council, told them how sorry his Majesty would be for this Breach, but the Assembly's Behaviour had extorted what was done. The Earl of *Argyle* withdrew, and fully clear'd all Jealousies about him; for he told them plainly he would take the Covenant, and own the Assembly: but most of the Counsellors, particularly all his Assessors (except *Argyle*) seem'd satisfy'd with the Marquis's Carriage, who the next morning got most of them to sign the Proclamation for dissolving the Assembly, and then sent it to the Market Cross to be proclaim'd, where it met with a new Protestation. *Argyle's* Example was follow'd by some few Counsellors.

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The Procla-  
mation.

The Proclamation was dated the 29th of Novemb. It recited all his Majesty's Concessions in his last Proclamation: All which, notwithstanding they had so often petition'd for the same, instead of reducing his Subjects to their former dutiful Behaviour, have imbolden'd them to continue in their stubborn and unlawful Courses, and daily to add thereunto Acts of Neglect and Contempt of Authority, as appear'd by their Protestation, their Endeavours to withdraw the Hearts of his People, their guarding about the Castle of *Edinburgh*, suffering nothing to be imported thereinto but at their Discretion; their stopping any Ammunition or other Necessaries whatsoever to be brought into any other of the Houses of him their Sovereign Lord (an Act without Precedent



Ann. 1638.

in the Christian World) and their setting up Tables in *Edinburgh*, where, without warrant of Authority, they convene and treat of Matters Ecclesiastical and Civil, send their Orders throughout the Country to their subordinate Tables, and require Obedience thereunto, to the prejudice of Monarchical Government. And notwithstanding it was evident by the illegal Elections of their Commissioners for the Assembly, some of whom are under the Censure of this Church, some under the Censure of the Church of *Ireland*; some banish'd for teaching against Monarchy, others suspended; some admitted to the Ministry contrary to Law, others denounc'd Rebels and put to the Horn; some of them confin'd, and all of them by Oath and Subscription, bound to the Overthrow of Episcopacy; and by the Proceedings of the Presbyteries, who thrust out the Moderators lawfully establish'd, and plac'd others inclinable to their turbulent Humors, and associated to themselves, for choosing Commissioners for the Assembly, a Lay-Elder out of every Parish; who being in most Places equal to, if not more in number than the Ministers, made choice of such for Commissioners, as the pretended Tables directed them, as appears by the private Instructions sent from them, so that no calm or peaceable course could be expected from their Assembly: Yet his Majesty was pleas'd to overlook those Disorders, in hopes that when they met, they would have return'd to their Obedience; but instead thereof they repair'd to the Assembly with great Troops of Men, and Guns and Pistols, refus'd the Assessors authoriz'd by him the power of Voting, as was the Custom in other Assemblies, or to hear the Bishops Reasons read why they ought not to proceed to the Election of a Moderator without them, or to admit any of the Commissioners from Presbyteries before their Objections were heard, tho' earnestly requir'd by his Majesty's Commissioner, and notwithstanding his said Commissioner gave in a Declaration of all contain'd in the late Proclamation. His Majesty therefore, lest their continuance might produce other the like dangerous Acts, derogatory to Royal Authority

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had thought fit to dissolve the said Assembly, prohibiting them any further convening together under pain of Treason, declaring all they should do null and void, discharging his Subjects from any Obedience thereunto, and commanding all the Members of that Assembly to depart from *Glasgow* within twenty four hours, but with this Provision, that the aforesaid Declaration given in by his Commissioner should stand in force for his Subjects assurance of the true Religion.

The Protestation was in the name of the Commissioners conven'd in the Assembly, and of those who had subscrib'd the Confession of Faith, to this effect: That they taking to heart the Innovations lately by the Prelates introduc'd into the Church, and having supplicated his Majesty for a free General Assembly, his Majesty sent the Marquis of *Hamilton* with Commission to hear and redress their Grievances; who being fully inform'd of the necessity of a free General Assembly, undertook a Voyage to *England* to present the Condition of their Church to his Majesty, and return'd in *August* last, impower'd to indict an Assembly, but with such Prelimitations as could no way cure the Diseases of that Church; which being made apparent to his Grace, he undertook another Journey to his Majesty for a free General Assembly, without any Prelimitation of the Constitution and Members, Matters to be treated, or Manner and Order of Proceeding; so that all Questions concerning those Particulars should be determin'd by the Assembly it self: and returning in *September*, caus'd to be indicted a free General Assembly to be held at *Glasgow* the 21<sup>st</sup> of *Novemb.* instant, which met accordingly, and hitherto continues assisted with his Grace's Presence. But his Grace never allow'd any Freedom to the Assembly, protesting against all the Acts made therein, and against its Constitution by such Members as were ever admitted in their free Assemblies, and denying his Approbation of the Matters concluded on: And after the reading of this Commission from his Majesty, and Examination of all their Commissions from Presbyteries and Burroughs,

The Protestation of the Assembly, &c.

Ann. 1638.

roughs, he hath unexpectedly discharg'd them from further meeting on pain of Treason, and after seven days sitting declares all Acts made or to be made in this Assembly to be void, and that for such Causes as are answer'd in their former Protestations, or contain'd in the Prelates Declinator, which hath been fully answer'd, or in the eleven Articles propounded by his Grace, wherein his Grace acknowledg'd himself satisfy'd by their Answers, and promis'd them all Power to determine about the Members, Matter and Manner of the Assembly, or for Causes propos'd by his Grace in the Assembly; for that they refus'd to read the Prelates Declinator, which nevertheless was read and consider'd after the Election of a Moderator, before which there was no Assembly constituted. Next, that ruling Elders were admitted to vote in the Election of Commissioners, whereas this was known to his Grace before the Indiction of the Assembly, and is agreeable to the Practice of the Church before the late times of Corruption. Then that the Votes of the six Assessors who sat with his Grace were not number'd; whereas when after 39 National Assemblies of this Reform'd Church, where neither the King, nor any for him, was present, his late Majesty, at the Assembly's Desire, vouchsafed his Presence by himself, or his Commissioner, it was not for multiplying of Voices, but to countenance the Assembly, and preside therein as the Princes and Emperors did of old. And if his now Majesty had honour'd them with his Presence, he would only (as *K. James* did) have given his own Judgment, and not call'd others to carry things by plurality of Voices. They profess with sorrowful and heavy, but loyal Hearts, that they cannot dissolve this Assembly for these Reasons: 1. For the Reasons already printed about the necessity of a General Assembly, which are now stronger since the Assembly is conven'd, and fully constituted and acknowledg'd by his Majesty's Commissioner, who hath sat therein seven days, and his Majesty's Declaration exhibited to be register'd in the Books of this Assembly. 2. For the Reasons contain'd in their former Protestations, to which they

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now judicially adhere, as also to the Confession of Faith and Covenant. 3. The King, his Commissioner and Council have urg'd many to subscribe the Confession of Faith made *Anna* 1580 and 1590, and so to return to the Doctrine and Discipline then profess'd. Now by that Doctrine and Discipline (contain'd in the Book of Policy) it's unlawful to dissolve the Assembly of the Church, or stay their Proceedings, as if Religion and Church-Government depended absolutely upon the pleasure of the Prince. 4. There is no pretence by Act of Assembly or Parliament, or any preceding Practice, for the King to dissolve the General Assembly, much less his Commissioner: For by Act of Parliament his Majesty's Prerogative is declar'd to be no ways prejudicial to the Privileges and Liberties granted by God to the Office-bearers and Meetings of this his Church, which likewise his Majesty by his Coronation-Oath is bound to maintain. 5. They have always continu'd sitting, without or notwithstanding any Countermand, as in 1582, when the King charg'd them under pain of Horning to stay their Process against *Montgomery*, pretended Bishop of *Glasgow*, or to dissolve and rise; they still sat and finish'd their Process, and by Letter shew'd his Majesty how he had prejudg'd the Prerogative of Jesus Christ; and ordain'd none should procure such Warrant under pain of Excommunication. 6. Now to dissolve would be to offend God, contemn the Subjects Petitions, deceive their Hopes of Redress, multiply Combinations, and make Men despair of seeing Religion establish'd, Innovations remov'd, Complaints regarded, or the Offenders punish'd. 7. The two Covenants insisted on of either side being pretended to be different, tho in truth they are but one, saving only an Explanation which the late Corruptions inforc'd, the Assembly cannot dissolve till they have remov'd this scandalous Show of two Confessions of Faith, and try'd and determin'd them to be one and the same Covenant.

For which and other Reasons they protest: 1. That their Intentions are such as become good Christians and loyal Subjects. 2. That all the Protections

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*Ann.* 1638. propos'd by the Commissioner his Grace, or the Prelates and their Adherents, be presently discuss'd here, and his Grace not to depart till this be done. 3. Nor depart till this Assembly have fully settled the Peace of this Church, by examining the Corruptions in Doctrine and Discipline, which and their other Proceedings, they attest God, have, and shall be, in the Sincerity of their Hearts, according to the Word of God, the Laws of the Church, the Confession of Faith, their National Oath, and the Light God had given them. 4. If his Grace depart, there's the greater necessity for them to continue sitting, till they have try'd and censur'd the late Corruptions, and the Introducers of them, and settled Religion in its Purity. 5. That this Assembly, and all their Acts, Sentences, Censures and Proceedings, are to be obey'd by all, as being a Lawful, Free and General Assembly. 6. Whatsoever Inconveniences fall out by impeding or molesting this Assembly, or by disobeying the Ordinances thereof, are to be imputed not to them, but to the Prelates and their Adherents, who being conscious of their own Guilt, have protested against this Assembly, and mov'd his Grace to depart and discharge it, and are the Disturbers of the Peace, and Overthrowers of the Liberties of the Church: They therefore cite them to appear before them, make their Defences, and hear their Sentence: They likewise cite those of his Majesty's Council and others, who have procur'd, consented to or subscrib'd this present Proclamation, to be responsible to his Majesty and three Estates of Parliament for their Counsel given therein, and protest for remedy of Law against them. 7. They protest, that as they adhere to their former Protestations, so they may extend this their Protestation, and add more Reasons thereunto in length and number: and upon the whole Premises they ask'd Instruments. This was read in the Assembly the twenty eighth of November (his Grace departing before it was read to the end) and on the twenty ninth publish'd at the Market Cross of Glasgow.

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The Council's Letter to the King.

On the twenty ninth of *November* the Council wrote a Letter to his Majesty, wherein they reffer'd the particular Relation of what had pass'd to the Marquis himself, and acknowledg'd that never Servant discharg'd so great a Trust with more Industry, Care, Judgment and Patience, altho the Success had not answer'd his Desires or Endeavors: They thank'd his Majesty for renewing his former Act of Grace, express'd in his Proclamation and Declaration about Religion, and return'd him an Offer of their Lives and Fortunes.

Not long after the Marquis receiv'd two Letters <sup>2 Letters</sup> from the Archbishop of *Canterbury*; the one dated <sup>from the</sup> the third of *December*, to this effect, That all the <sup>ArchBp of</sup> Passages of *Scotland* had been sent him, but never <sup>Canterbu-</sup> were there half so many Absurdities committed in so short a time in any publick Meeting, nor did the <sup>ry to the</sup> Church of Christ ever see such a National Assembly. He was sorry the People should be so furious, as that his Grace thought fit to send the two Bishops from *Glasgow* to *Hamilton*; much more that his Grace doubts his own Safety, upon whose Life Affairs there so much depend. He is sorry too that the King's Preparations can make no more hast, but he hath call'd upon his Majesty, and by his Command upon others, and more he cannot do: That his Grace should write he could not tell whether this may be his last Letter, mightily troubles him; but he hopes God will preserve him to set his Majesty's Affairs right again. He thanks him for his kindness to the poor Clergy, particularly the Bishop of *Ross*: He finds by the Dean's Letter, that Mr. *Alexander Henderson*, who went for a quiet Man, hath shew'd himself a Moderator without Moderation; but he never saw a Man of that Humour but was violent one way or other. He prayeth him not to suffer a Rupture till there be no Remedy.

The other was dated *Decemb. 7.* That he read to his Majesty half the long Discourse the Dean sent him, which gave the King great satisfaction why he (the Marquis) dissolv'd the Assembly. The Proclamation and the Council's Letter, the King thanks him



Ann. 1638. him for." For the Earl of *Argyle*, 'tis refer'd to him, whether he will yet put him from the Council Table, if he now publickly adheres to the Covenant and Assembly; yet he will hardly look right upon that, who ever look'd askint upon the King's business. His Majesty leaves it to him, whether to come to Court or stay: but the Archbishop hopes he will not come away, till the King's Party there can be left in some security. The King protests he makes all the hast he can with his Preparations, but the fears of giving the Covenanters Umbrage hath caus'd their delay. They say, Three Ships-full more of Arms are come into *Leish* from *Poland*; Where have they Mony to buy all this? If true, the King of *Poland* is quit with his Majesty for the late neglect of his Ambassador. For the Mony the Marquiss mention'd, the King saith, If he can possibly scrape up so much together, it shall be had. The Dean's Letter shews the necessity of a Force against the rising of the Assembly, to prevent new Confederacies, and moves for some care to be taken of the poor Clergy, who will suffer deeply for God and the King. About these things he hath said to the King all he can.

The King's  
Letter to  
the Mar-  
quiss.

The Marquiss receiv'd a Letter from his Majesty dated likewise *December 7.* wherein the King approves of his dissolving the Assembly; Bids him take care that by his coming away his (the King's) Party be not left destitute of Advice or Protection, or be disheartned or prejudic'd; saith, His Preparations will not be ready till *February* or *March*; bids him therefore consider, whether not best (notwithstanding the Impertinences of this last Assembly) to give hopes the Parliament shall hold, so they break not out into Rebellion; and he will not say but it may be fit it should hold: he hopes he does not conceive his Commission is out, and expects him to send out Commissions of Lieutenancys to *Humley* for the North, and to *Traquair* or *Roxburgh*, jointly or severally for the South, but all subaltern to him (the Marquiss): This not to be done but upon necessity, whereof he leaves him to be Judg.

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The Archbishops and Bishops of Scotland and their Adherents, had at first sitting of the Assembly presented their Declinator and Protestation against them, dated November 21. which was to this effect. They acknowledg that a General Assembly lawfully call'd and orderly conven'd, is a necessary and effectual means for removing those Evils where-with the Church is infested, and for settling Order in the House of God: And that his Majesty only by his Prerogative can call Assemblies; but they esteem that at *Glasgow* unlawful and disorderly, and their Proceedings void and null, for these Reasons: 1. His Majesty's Warrant for indicting this Assembly was not publish'd till the 22d of September; but the Tables had by their Missives and Instructions order'd all Presbyteries to chuse their Commissioners before that time, which was done without Authority; nor can it be reputed a lawful Assembly, where there are more Laicks than Clergymen, with equal Power to judg and determine, or where it consists of Laicks and Clergymen not lawfully authoriz'd, or who are not capable of that Employment by their Places, or are legally disabled to sit and decide in an Assembly; as in the Act of Parliament, *Ja. 6. Par. 3. Chap. 46. 1572.* 2. Every Minister having an Ecclesiastical Living, is bound to give his Assent and Subscription to the Articles of Religion contain'd in the Acts of Parliament, and give his Oath for recognizing the King's Authority, and bring a Testimonial in Writing thereupon, and on some Sunday in Sermon or Prayer time read both Testimonial and Confession, and renew his said Oath within a Month after his Admission, on pain of being depriv'd *ipso facto*, and all his Ecclesiastical Promotions and Livings to be vacant, as if naturally dead; none of which most of the Clergy conven'd in this Assembly have done, but being so depriv'd, have no Place or Function in the Church, and consequently cannot be Commissioners to this Assembly. 3. Altho the said Ministers, as Subjects comprehended in the Representative Body of this Kingdom, have promis'd to acknowledg, maintain, and

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Declinator.

Ann. 1638.

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and defend his Majesty's Person, Sovereign Authority and Prerogative Royal, against all Persons, Powers and Estates, as in *Jac. 6. Parl. 18. Cap. 1.* and *Car. Parl. Cap. 1.* and ought at their Admission to swear Allegiance to the King's Supremacy in Ecclesiastical Matters, as by Act of Parliament 1612. Yet his Majesty having by Act of Council September 24. 1638. and his Proclamation, ordain'd all his Subjects whatsoever to swear and subscribe the Confession and General Bond for defending his Majesty's Person and Authority, they have refus'd to subscribe the same, and have in their Sermons and Speeches dissuaded and deter'd others, and publickly protested against such Subscription, and therefore are no fit Persons to concur to the making up of the Assembly of the Kirk. 4. The Commisioners to this Assembly do most of them adhere to the last Protestation of September 1638. whereby they declare it lawful for them to assemble themselves, notwithstanding any Impediment or Prorogation; and by continuing their Tables and Meetings, refusing to subscribe the Bond according to his Majesty's Command, protesting against it, and insisting upon a Bond of mutual Defence against all Persons whatsoever, they have forfeited their claim to the Pardon offer'd in the Proclamation, and the Liberty to be Members of this Assembly. And altho by the Act of Parliament *Jac. 6. Parl. 15. Cap. 3.* the Prelates are declar'd one of the three Estates of Parliament, and by the Act of *Jac. 6. Parl. 8. Cap. 130.* none are to impugn the Authority of the three Estates under pain of Treason, and the King by his Proclamation calls the Archbishops and Bishops to this Assembly, as having Voices there, as was likewise declar'd by several Assemblies, particularly by those in 1566. 1572. 1573. and 1586. they notwithstanding by their Protestation, September 22. declar'd the Archbishops and Bishops to have no Warrant for their Office in this Kirk, nor to have Place or Voice in this Assembly and arrogate a Sovereign Authority to determine all Questions concerning their Freedom, Constitution

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tion, Members, Matters to be treated, and order of Proceeding, contrary to his Majesty's Supremacy. 5. The Commissioners chosen, admitting but not granting, that they had Authority to sit in this Assembly, have lost such right by deposing the Moderators appointed them by the Bishops, and electing others contrary to the Act of Assembly in 1610. and the Act of Parliament in 1612. ordaining the Bishops to be Moderators, or in their absence, the Ministers appointed by them. A Laick Ruling Elder was, in the Election of the Commissioners, associated with the Minister in every Session and Parish; and they being Men of Authority in the Parish or Bounds, and more in number than the Ministers (those in the List not being permitted to vote) the Commissioners for the Clergy are in effect chosen by Laymen; whereas heretofore Lay-Elders never chose Commissioners for the Assembly, only were sometimes call'd to assist in Discipline and Correction of Manners. And by Act of Assembly April 24. 1582. they were to be fewer than the Pastors, nor were they call'd to Presbyteries: and tho it is pretended, that by the Act of Assembly at Dundee, 1597. the Presbyteries might send these Lay-Commissioners, it doth not appear, that these Lay-Elders had any hand in chusing the Ministers. 7. These Ecclesiastical pretended Commissioners have render'd themselves unworthy and incapable of any Commission to an Assembly; for by their Sermons and Pamphlets they have wounded the King's Sovereign Authority, and animated his Subjects to Rebellion, averring that all Sovereign Authority is originally in the collective Body, and in case of the Prince's Negligence or Male-Administration, returns thither again, so that *Rex excidit jure suo*; and they are either such as have been schismatically opposite to all good Order in Church and State, or such as have broken their Oath of Obedience to their Ordinary, or have resisted Authority and disturb'd the Church, or such as are under the Censures of the Church, or deserve to be so, for their irreverent Speeches in their Sermons against the Council (punishable by

Ann. 1638.

Deprivation by an Act of Assembly 1590) for re-  
 proving his Majesty's Laws and Ordinances, con-  
 trary to an Act of Assembly 1596. for expressing  
 Mens Names in Pulpits, or lively describing them,  
 using impertinent Applications there, keeping Con-  
 ventions without Authority, and receiving Peo-  
 ple of other Flocks to the Communion, contrary  
 to other Acts of Assembly, for intruding into other  
 Mens Pulpits, usurping an Authority to convent  
 their Brethren, and to proceed to Suspension and De-  
 privation, and urging a Covenant not allow'd by  
 Authority, but opposing that offer'd by his Majesty.  
 8. 'Tis against Reason, Scripture, and the Church's  
 Practice, for Lay-men (unless delegated by Sove-  
 reign Authority) to have a decisive Voice in a Ge-  
 neral Assembly: Nor doth the said Act of 1597.  
 warrant it, but only that Lay-Elders may be pre-  
 sent; and they pray in the Words of the fourth  
 Council of *Chalcedon*, *Mitte hos superfluos*; some  
 other Passages they cited also out of the Councils.  
 9. These pretended Commissioners Lay and Eccle-  
 siastical (had they been lawfully authoriz'd, which  
 is deny'd) have all or most of them pre-condemn'd  
 Episcopacy, and therefore may be declin'd by the  
 Bishops, as no equal Judges, as our Reformers up-  
 on the same Grounds refus'd to appear at the Coun-  
 cil of *Trent*, and *Athanasius*, *Hosius*, and *Maximus*  
 before other Councils: they have condemn'd, at least  
 suspended, Obedience to the five Articles of *Perth*,  
 approv'd their Covenant before-hand, and have  
 bound themselves by Oaths to defend it, and there-  
 fore ought not to be admitted to determine of those  
 Persons or Points; for how can the same Persons  
 be both Judges and Parties? the pretended Com-  
 missioners of this Assembly having made themselves  
 Parties against the Bishops by declining, reproach-  
 ing, opposing, and oppressing them; for which they  
 have indicted and kept Fasts by their own Autho-  
 rity, usurp'd other Mens Churches, caus'd to be read  
 that unlawful Covenant, and by Threatnings com-  
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several worthy Ministers, by Authority of their  
Tables and Presbyteries.

14 Car.

The Marquis at his coming to *Edinburgh* caus'd  
another Proclamation to be publish'd, dated *De-*  
*cember 8.* repeating the abovesaid Proclamation of the  
29th of *November*; to which were added the In-  
structions sent from the Tables to the several Pres-  
byteries, concerning the Elections of Commissioners  
for the Assembly, to this effect. 1. That these  
private Instructions be not discover'd, but to Bre-  
thren well affected. 2. That none be chosen Ru-  
ling Elders but Covenanters. 3. That where the  
Minister is not well affected, the Ruling Elder be  
chosen by the Commissioner of the Shire. 4. No  
Minister to be chosen, who is a Justice of Peace,  
tho Covenanters, unless they publickly renounce  
these Places as unlawful. 5. That the Ruling El-  
ders come from every Church, in equal number  
with the Minister. 6. That the Commissioner of  
the Shire convene before him the Ruling Elders of  
every Kirk, chosen before the day of the Election,  
and enjoin them upon Oath to give their Vote for  
none but those already nam'd at the meeting at  
*Edinburgh*. 7. That a Nobleman (if any within the  
Presbytery) be chosen; if none, then a Baron or  
one of the best Quality, so he be a Covenanter.  
8. That the ablest Men in every Presbytery be  
prepar'd to dispute *de potestate supremi magistratus*  
*in Ecclesiasticis, prasertim in convocandis conciliis,*  
&c. The King's Declaration, which the Marquis  
gave in under his Hand to the Assembly, and here-  
in before recited, was also set forth *verbatim* in this  
Proclamation; wherein his Majesty likewise declar'd,  
That his former Proclamation for dissolving the As-  
sembly, had met with a Protestation of a high and ex-  
traordinary Strain, thereby presuming to cite and call  
his Council in question. Notwithstanding all which  
Contumacy, they should never move him to alter the  
least Article of his said Proclamation or Declaration  
under his Commissioner's Hand; which he requir'd  
to be register'd in the Books of the Assembly, to  
remain as a Testimony to Posterity of his Majesty's

Another  
Proclama-  
tion.



Ann. 1638

Ann. 1638. sincere Intentions to the true Religion, and his Resolution to maintain and defend it. But his Majesty understanding that in contempt of his Proclamation, they go on to convene at *Glasgow*, and make unwarrantable Acts; He frees his Subjects from all Obedience to such pretended Acts, forbids them to yield any such Obedience, and inhibits all Presbyteries, Sessions of Kirks, and Ministers in their Sessions, Meetings, Conferences or Sermons, to approve or countenance that unlawful Assembly. And all Noblemen, Barons, and others of his Subjects, who shall hear any Ministers approve the said Assembly, or utter any Speeches against his Majesty's, or the Council's Proceedings, are to inform the Council thereof, on pain of being punish'd as allowers of the same. And all Judges, Clerks, Keepers of the Signet, &c. are commanded not to grant any Process, &c. upon any of their Acts; and all his Subjects not to subscribe or swear to the Confession of Faith, *Anno* 1580. in any other sense than that in his Declaration, nor subscribe any Bond, or give any Oath, upon such Act or Deed as proceeds from that pretended Assembly; declaring in the Word of a King, He will to his Power defend all such as shall refuse to acknowledg them.

After the publishing of this Proclamation, the Assembly at *Glasgow*, the 18th of *December*, made a Protestation at the Market-Cross at *Edinburgh*; for which, being very long, and most of it a Repetition of former Passages, the Reader is refer'd to the King's large Declaration, *Page 375.* to 401. suppos'd to be pen'd by Dr. *Balaanquel*.

The Earl of *Argyle* began to declare himself openly the Head of the Covenanters; and the Assembly continuing to sit, notwithstanding the King's Proclamation, he sat continually with them, although not as a Member, but as their chief Director, and the Assembly went on at a high rate. They declar'd six General Assemblies to be prelimited and void; and the Service-Book, Book of Canons, High Commission, Articles of *Perth*, and Episcopacy itself, to be unlawful. They condemn'd all the *Armi*

nian Tenets, without defining what they were: 14 Car. They appointed the Covenant to be taken by all under pain of Excommunication, and proceeded to the Process of the Bishops notwithstanding their Declinator, depos'd them all, and excommunicated eight of them. And then they clos'd all, with a Letter to the King, wherein they justify'd their Proceedings, complain'd of the Usage they met with from his Commissioner, and pray'd his Majesty to look upon them as good and dutiful Subjects, and be satisfy'd with what they had done. *They break up, and write to the King.*

Their Sentence against four of the said Bishops, *Their Sentence against divers Bishops.* viz. the Bishops of Murray, Orkney, Lismoir and the Isles, was to this effect: That the said pretended Bishops being duly cited and not appearing, they had proceeded to the Cognition of the Libels against them; and finding them guilty of voting in Parliament, contrary to the Restriction by the Assembly at Montrose, Anno 1600. of incroaching upon the Liberties and Jurisdictions of this Kirk, especially of receiving Consecration to the Office of Episcopacy, condemn'd by the Confession of Faith, and Acts of this Kirk, as having no Warrant in the Word of God, of pressing the Kirk with Innovations, and of Refusal to submit to the Trial of several other gross Transgressions laid to their Charge; therefore the Assembly doth depose the said pretended Bishops of voting in Parliament, Council or Convention, and of all Episcopal and Ministerial Functions; and if they do not acknowledge and reverence the Assembly, obey the Sentence, and shew their Repentance, in such form as is prescrib'd them, the Assembly ordains them to be excommunicate, and to be held as Ethnicks and Publicans, and the Sentence of Excommunication to be pronounc'd against them in the Kirk appointed to try their Repentance or Impenitence.

After the rising of the Assembly, the Scots by Threats and Force of Arms, compell'd their Acts to be receiv'd, requir'd the Judges to approve them, and threaten'd them for refusing, levy'd Soldiers, and impos'd Taxes for payment of them, rais'd divers *King's Declaration, Fol. 102, 103, &c. Proceedings and Sayings of the Covenanters.*

Ann. 1638.

Fortifications, block'd up the King's Castles and Forts, forcibly took *Edinburgh* Castle, caus'd their Preachers to tell the People, There was a necessity of taking up Arms against his Majesty, under pain of Perjury and Damnation; and scatter'd Libels in *England*, to incite them to the like Rebellion. One of them, upon the Commissioner's coming home, pray'd God to deliver them from all crafty Compositions: another would not pray for the Provost of *Edinburgh*, when upon his Death-bed, because he had not subscrib'd the Covenant; another pray'd God to scatter them in *Israel*, and divide them in *Jacob*, who counsel'd the King to require a Subscription of the Confession of Faith. Many Ministers would not admit those to the Communion, who had not subscrib'd their Covenant, but rank'd them with Adulterers, Slanderers, Blasphemers, &c. Some would not suffer their Children to be baptiz'd by those who were not of the Covenant: one preach'd, That all the Nonsubscribers of the Covenant were Atheists; another, That the Wrath of God would not depart from them, until the twice seven Prelates (the number of the Bishops) were hang'd up before the Lord, as the seven Sons of *Saul* were in *Gibeon*: Another, That the Covenant ought to be maintain'd, tho never so many Acts of Parliament against it. Another said in his Sermon, Let us never give over, till we have the King in our Power, and then he shall see how good Subjects we are; another, That the sharpest War was to be endur'd, rather than the least Error in Doctrine and Discipline. Another in his Sermon wish'd, That he and all the Bishops were in a bottomless Boat at Sea together. 7 AP 63

The End of the Second Volume.

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